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The Indian New Deal: *Scenes from the Carson Indian Agency*

RENÉE CORONA KOLVET

Most of us are aware of the Great Depression and the hardships that were imposed on mainstream America. The plight of eastern cities and midwestern farms is immortalized in discolored images of breadlines, train-hopping hobos, and transient families moving west with their worldly possessions in tow. The contemporary struggle of American Indians, however, is less understood. The fact is that most Indian people were living in abject poverty long before the stock market crash of 1929. By one estimate, a hundred and fifty thousand American Indians were landless and had basically been forgotten by the federal government and most of its people.¹

Native Americans under guardianship of the Office of Indian Affairs (today, the Bureau of Indian Affairs, or BIA) were largely uneducated and lacked jobs and marketable skills. Those within the jurisdiction of the Carson Indian Agency (or Agency) of western Nevada and eastern California purportedly had some of the lowest per capita incomes of all Indian groups.² By the 1930s, most Native Americans had assimilated into Anglo culture in varying degrees. During his seminal study in the western Great Basin, the anthropologist Julian Steward reported that fragments of traditional culture still survived, but that different groups were divided along cultural lines.³

Renée Corona Kolvet is an archaeologist who has extensively studied FDR's New Deal and its implications to Nevadans including Native Americans. She is coauthor of *The Civilian Conservation Corp in Nevada* and author of *Images of America: Hoover Dam*.

He observed native-speaking elders who retained the culture and behavior of their ancestors; middle-aged, largely assimilated persons who lived in two worlds; and younger, better-educated, mixed-blood individuals who worked and competed in mainstream society. By the late nineteenth century, scattered groups of Washoe, Southern and Northern Paiute, and Western Shoshone Indians usually lived on the fringes of Anglo ranches or in rural reservations or colonies on the edges of small towns. By comparison to the Navajo Nation or the Pueblo groups in the Southwest, western Great Basin Indians were sparse. In 1938, an estimated 5,381 Indian people lived within the jurisdiction of the Carson Indian Agency.⁴ Indian people in this region of the Great Basin received nominal attention based on their small numbers and rural locations.

But help was on the way for most native people across the nation. After decades of troubling Indian policy, the federal government adopted a more humane and sensitive approach by passing the Indian Reorganization Act (IRA), or Wheeler Howard Act, in 1934 (48 Stat. 984). The IRA's overriding goal was to raise the standards of living of Indian people and to encourage economic and social independence for newly organized tribes. This change in federal policy and attitude toward Indian people would by necessity, begin within the ranks of the BIA.

There is ample literature on the IRA, and scholars continue to scrutinize its successes, failures, and long-term implications for Native Americans and reservation life. Ample literature also exists on the IRA's mastermind, Indian Commissioner John C. Collier and the motives behind the act which he fought so hard to pass. There are a number of studies that look at the effect of the IRA and its implications for specific Indian tribes, mainly plains and southwestern groups. This article contributes to the dialog by describing how the IRA played out on Nevada and eastern California reservations under the jurisdiction of the Carson Indian Agency headquartered in Stewart, near Carson City, Nevada.

The information presented in this article was compiled from both published and non-published sources including ethnographic studies, scholarly books, tribal histories, archival documents, newspapers, federal agency reports, and personal interviews. The IRA was examined from a national perspective, as well as the historical and political factors that led to its passage, and followed by a summary of the Carson Indian Agency's strategies to implement the provisions of the new Act.

U.S. INDIAN POLICY REFORM AND THE INDIAN REORGANIZATION ACT OF 1934

The quality of Indian life took a downturn in the years following the Dawes Severalty Act (or General Allotment Act) of 1887. Forced assimilation

and loss of millions of acres of Indian land to westward settlers forever changed Native American societies and traditional ways of life. A federally sponsored study known as the Meriam Report (1928) painted a dismal picture of Indian life and exposed the dismal failures of U.S. Indian policies. The study raised public awareness of the disease-ridden, poverty-stricken condition of landless Indian people, both on and off the reservations.⁵ The report also caught the attention of President Herbert Hoover and the United States Congress. While the well-intentioned president responded by raising funding levels for the BIA, his programs had barely gotten off the ground when he lost his bid for re-election in 1932.⁶ Fortunately, the newly elected president, Franklin Delano Roosevelt, shared Hoover's concern for the future of Native Americans and incorporated the needs of Indian reservations within his massive legislative and executive initiatives known as the "New Deal."

Roosevelt's appointed Secretary of Interior, Harold Ickes, also shared the president's empathy for Native Americans. Ickes was instrumental in the selection of the Indian advocate, John C. Collier, for the position of Commissioner of Indian Affairs. After some maneuvering, the secretary convinced the president that Collier was the right person for the job. Indeed, Collier had a long-standing interest in Indian rights and was known for his integral role in the return of illegally acquired privately owned lands to southwestern Pueblo groups. The *Literary Digest* aptly described the Commissioner as "small, bespectacled... white of skin, but Indian at heart."⁷ Collier was ready, willing, and able to fight for a better life for Indian people and the revitalization of their native culture.

Roosevelt and Senator Burton K. Wheeler and Congressman Edgar Howard, who sponsored the IRA, were major players in its passage, although the true driving force was Collier. His visions were a major departure from existing Indian Policy. However, despite his good intentions, Collier's plan for Indian self-rule met with major opposition. The proposed IRA was criticized for being little more than a restructuring of colonial rule. Collier admittedly had proposed a system of "indirect administration" with continued, albeit limited, federal oversight of Indian people. This meant that the BIA would retain guardianship over tribal assets and approval authority over tribal constitutions and by-laws. This approval process proved to be a bone of contention for many tribes that organized under the IRA.

To Collier's dismay, the final legislation was considerably modified, this at a time when most New Deal bills sailed through Congress.⁸ Heavily scrutinized for budgetary and ideological reasons, the IRA was even criticized by certain Native American groups, especially those that had assimilated into Anglo society. Still other tribes were skeptical of the long-term implications to their existing forms of tribal government and were perplexed by the IRA's legal terminology.⁹ Collier later acknowledged his failure to adequately

consult with tribes during its development. This oversight caused its share of hard feelings and distrust, and resulted in numerous delays in its implementation. Consequently, Carson Indian Agency superintendents expended considerable time selling the IRA to the tribes. Despite allegations of coercion, the BIA eventually convinced a majority of tribes to organize. Nationwide, 174 reservations (approximately two-thirds) voted to adopt the IRA and the concept of self-rule.¹⁰

The IRA contained several provisions. It repealed the Dawes Act of 1887, and, in doing so, put an end to decades of assimilation policies and massive losses of Indian land. The IRA promoted self-government by encouraging Indian tribes to organize politically. By voting to accept the IRA, tribes agreed to adopt constitutions and by-laws. In doing so, tribes would exercise more control over reservation matters and make decisions with less BIA oversight. The IRA also encouraged tolerance of religious and cultural traditions and sought to improve Indian education by providing opportunities for Indians both on and off reservations.

There was also a number of financial benefits for tribes that organized. Loans from a \$10,000,000 Revolving Cattle Fund were available to groups that established business charters under Section 17 of the IRA.¹¹ The federal loans were earmarked for the purchase of livestock and farm equipment. At the time, the livestock industry was a main source of income for reservations in Nevada and the West. The BIA took the stand that ranching and farming were the keys to economic viability on reservations.¹² To assist with the mission, federal Soil and Moisture Conservation Operation (SMCO) funds were available for surveying and evaluating the condition of overgrazed rangelands, as well as providing recommendations on ways to fight erosion. BIA farm agents and federal range officials taught Indian cowboys new concepts such as optimal herd size and cattle rotation, and demonstrated ways to eradicate noxious weeds and impound irrigation and stock water on semi-arid rangelands.

Despite ongoing efforts to secure a regular source of funding, federal monies for reservation programs were consistently inadequate. The recurrent shortfalls forced Commissioner Collier to look to other New Deal agencies to help implement the IRA's mandates. Thus came the merger of IRA and "alphabet" programs such as the Public Works Administration (PWA), Works Progress Administration (WPA), Resettlement Administration (RA), and the Civil Works Administration (CWA). This merger is often referred to as the "Indian New Deal."

Federal programs benefitted all tribal members. Both males and females were hired by the WPA to provide needed services or products. To supplement family income, women were taught to sew clothing and dry goods for their tribe. They also were encouraged to share their traditional crafts by tanning hides, designing traditional jewelry, or weaving native baskets



Figure 1. Alida C. Bowler served as the Superintendent of the Carson Indian Agency during the implementation of the Indian Reorganization Act. She held that position for more than six years. Photographer unknown. (*Lucille Hamner Collection, Nevada State Museum*)



Figure 2. Superintendent Bowler (in center) attends a meeting at Summit Lake Reservation in October 1934 to discuss cattle leases. Photographer unknown. (*Lucille Hamner Collection, Nevada State Museum*)

and cradleboards for a growing tourist market. Nationwide, thousands of Indian men enrolled in the Indian Division of the Civilian Conservation Corps (CCC-ID) and earned wages while helping improve their reservation land. To improve the standards of living, new homes were constructed for needy families and individuals. Land was purchased for most reservations to promote the success of agriculture.

Federally funded rehabilitation work on reservations continued steadily up until America's involvement in World War II. After 1942, the IRA and other New Deal programs were vigorously scrutinized by Congress, and funding for reservations was slashed. Years later, Commissioner Collier acknowledged his frustration, but conceded that "there were many whose troubles were far more numerous, and more severe, than were ours in the BIA and we were given responsibility for some of these."¹³ Collier was referring to the 110,000 Japanese Americans placed in internment camps on Indian Reservations after the attack on Pearl Harbor. Although the IRA remained in effect, support fizzled in 1945 following Collier's resignation and Roosevelt's demise. Years would pass before Indian reservations rebounded. Most scholars will agree, however, that significant strides were made on reservations as a result of the Indian New Deal. Others surmise that had it not been for the IRA, many tribal entities may have altogether disappeared. Clearly, the sovereign, self-governing tribal governments in operation today were born out of John Collier's vision.¹⁴

THE INDIAN NEW DEAL AND THE CARSON INDIAN AGENCY

In 1934, Commissioner Collier appointed Alida C. Bowler, a former colleague from the American Indian Defense Association, to the position of Carson Indian Agency Superintendent.¹⁵ (Figure 1) He knew from experience that Bowler would work tirelessly to implement the IRA. Bowler was one of the first females to hold a superintendent position and was aware of the challenges that lie ahead. Bowler and her staff immediately set out to educate tribes on the benefits of self-rule, i.e., electing tribal governments, and adopting constitutions and by-laws. A majority vote of each tribe's membership was necessary for passage. She and her staff made countless road trips over miles of dusty, rutted roads to hold open meetings with the eleven reservations and nine colonies within her jurisdiction (Table 1)¹⁶ and (Figure 2). With the exception of the Fallon Paiute-Shoshones and the Owens Valley Paiutes, most southern and northern Paiutes, western Shoshone and Washoe Indians eventually adopted the IRA. Bowler's demeanor and proactive stance garnered respect from the tribes. Northern Paiute elder Hilman Tobey recalled that Superintendent Bowler "understood Indian ways."¹⁷

CARSON INDIAN AGENCY, NEVADA – CALIFORNIA (1925-1952)
(11 reservations, 9 colonies and various allotments)

<i>Reservations</i>	<i>Colonies</i>
Campbell Ranch	Carson
Duckwater	Dresslerville
Fallon	Fallon
Fort Mc Dermitt	Las Vegas
Moapa	Lovelock
Owens Valley	Reno-Sparks
Pyramid Lake	Winnemucca
Summit Lake	Yerington (& Campbell Ranch)
Washoe	
Walker River	
Yomba	Stewart Boarding School

Note: By 1944, Carson Indian Agency jurisdiction encompassed 933,000 acres of Indian land spread over three-fourths of the State of Nevada, a small area of southern Oregon, and parts of three California counties including Alpine, Owens and Inyo (Death Valley).

The Carson Indian Agency received a fair share of New Deal monies, thanks to Commissioner Collier's passion for the cause. Nevada's congressmen actively pursued New Deal funding for other state needs, and were either neutral, or in Senator Patrick McCarran's case, actively opposed to most of the IRA's provisions. The state's first native-born senator was not in favor of Indian self-rule.¹⁸ According to Jerome Edwards, McCarran's biographer, despite Nevada's high percentage of Indians and Mexicans, Senator McCarran was "never particularly interested in these groups."¹⁹ In fact, the powerful senator sponsored eight bills denying Nevada Indian tribes the right to organize. McCarran also exerted intense political pressure to block the tribe's right to legal counsel, even though that right was assured by the IRA. To his chagrin, the Pyramid Lake Tribal Council successfully blocked each attempt.

At the root of the senator's contempt was a decade long fight over disputed land on the Truckee River. The irrigation works of five Italian families or settlers crossed lands that had been designated as reservation land in 1874. Despite the settlers' initial attempts to purchase the land from the tribe, the Depression and hard times took its toll and hampered any resolution. When the government moved to evict the settlers, McCarran quickly came to their aid.²⁰

Not surprisingly, the relationship between Bowler and McCarran was quite strained throughout her tenure. Convinced that she was inciting the Indians, the senator was largely responsible for her transfer to Los Angeles in 1939.²¹ While in Nevada for a six-week divorce, the reporter A. J. Liebling paid close attention to the land feud between the Pyramid Lake Paiute tribe and the Italian families. Liebling became enthralled by the dispute and his quest for answers took him to southern California to interview Bowler at her home. Having previously interviewed the out-spoken senator, Liebling was not at all surprised by the contention between McCarran and the spirited Bowler.²²

In his memoirs, Commissioner Collier recalled McCarran's hostility following the Supreme Court's ruling in favor of the tribe. His wrath did not end with Bowler leaving Nevada—Bowler's successor, E. R. Fryer was also replaced for enforcing the court's decision and evicting the settlers.²³

LAND ACQUISITIONS AND SUBSISTENCE LIVING

As the demand for farms and ranch land increased during the second half of the nineteenth century, major expanses of Indian territory was homesteaded or sold to Anglo settlers. As a result of the General Allotment Act, Indian land holdings were reduced from 136,340,950 acres to 47,311,099 acres between 1887 and 1933. Nearly half of the remaining lands were arid or semi-desert and devoid of water. In Nevada, prime agricultural lands went the fastest. Only a few local Indian families acquired public lands through the General Allotment or Indian Homestead acts. The anthropologist Martha Knack researched the lengthy process, stringent requirements, and miscommunications suffered by one Western Shoshone, Tim Hooper, in his bid to homestead a parcel of a hundred and sixty acres near Manhattan, Nevada.²⁴ Hooper's thirty year ordeal may not have been that unusual, and relatively few Indians successfully acquired or retained homesteaded land. Many "competent" Indians who successfully converted their allotments to fee lands eventually sold their property because they needed money or were foreclosed on for non-payment of property taxes.²⁵

Following the provisions of the IRA, the BIA sought additional land to add to reservations so that Indian farmers and ranchers could make a subsistence living.²⁶ The overriding goal was to convert families into self-sufficient "economic units" by increasing the tribal land base. The BIA addressed this matter in its publication, *Indians at Work*.

Most of the Nevada Indians have been existing precariously in scattered camps, on meager land, sometimes on no land at all. Land purchases made within the last few years, coupled with organization for mutual help and credit, have rescued several of these groups from certain oblivion and even made self-support at a decent standard of living possible.²⁷

As noted, the IRA's mandate was hindered by inadequate congressional funding for land acquisitions.²⁸ At the root of the problem was a group of western Congressmen who dominated the Appropriations Subcommittee. The representatives were fundamentally opposed to using federal funds to purchase land for Indian reservations.²⁹ A resourceful Collier was instead able to secure Resettlement Act funds from the Federal Emergency Relief Administration (FERA).³⁰ FERA was created to rehabilitate and relocate rural, drought-stricken farmers to more productive agricultural lands; however, as a result of Collier's request, administrator Harry Hopkins added Indian wards to the Sub-marginal Land Retirement Program of Rural Rehabilitation. To qualify for these funds, 20 to 50 percent of the land had to have been tilled and found unsuitable for farming.³¹ This posed little problem for the Carson Indian Agency and other western reservations as the majority of their lands met these criteria.

High demand for new land acquisitions forced Collier to restrict land purchases to the neediest of tribes. Once again, the Carson Indian Agency tribes easily met this requirement and additional funds became available for land purchases. To best utilize the limited funds, Bowler sought the advice of Indian tribes before acquiring new reservation lands. News of the BIA's land-purchase program quickly spread to surrounding communities, and the Indian Agency was deluged with offers of land for sale. The Soil Conservation Service attributed the flood of available ranch lands to tough times and the land-owners' inability to cope with erosion problems. Many owners of marginal land just wanted out.³²

Tens of thousands of acres of land and mineral rights were soon purchased for the Agency tribes that organized under the IRA. Three new reservations, Yomba, Duckwater, and the Campbell Ranch were established following new land purchases, and several existing reservations and colonies received federal funds to launch new agricultural programs. Most reservation economies were already dependent on livestock. The acquisition of additional reservation land would help tribes develop subsistence farming and more equitable livestock programs. The exception was at town colonies where wage labor was the main source of income.³³

Despite increased agricultural production, job prospects were limited on the reservations; many Indian men instead found employment in the defense industries or the railroad. The Hawthorne Naval Ammunition Depot and Herlong Ammunition Depot were major employers of Native Americans during the war years. Elders Hilman Tobey (Pyramid Lake Paiute Tribe) and Harold Miller (Walker River Paiute Tribe) found work at ammunition depots in Hawthorne and southern California. Others, like John Dressler (Washoe Tribe) began a successful career with the Southern Pacific Railroad in Sparks.³⁴

The BIA was aware that many tribal members would seek outside work. Raising livestock and farming were still the best options for those who remained on the reservation. Income from agriculture supported or supplemented the



Figure 3. Cowboys practice roping at Fort McDermitt Reservation, November 1934. Photographer unknown. (*Lucille Hamner Collection, Nevada State Museum*)

earnings of a limited number of reservation families. Cattle ranching quickly caught on and became a way of life for many western tribes. The author Peter Iverson described this appeal:

The cattle industry had started to influence attire and the play of children, it offered action, it proved a kind of role model not only that one would want to aspire to but one that could be achieved. The economics mattered. Cattle sales and income from cowboying paid the bills. However, it had already emerged as considerably more than an economic venture. It had permeated the social fabric of the community."³⁵

Several newly organized tribes applied for IRA Revolving Fund loans to jumpstart new agricultural enterprises and cooperatives. To assist the new ventures, the BIA purchased livestock from the Department of Agriculture for tribes with business charters. Initially, drought cattle from the dust-bowl states were issued to the Indian operators. Many of the animals marked with the Indian Division's "ID" brand were shipped to Nevada reservations from the Midwest.³⁶ The BIA fully expected that successful cattle ranching would take time and was especially pleased when three Nevada tribes were able to repay their revolving fund loans during the first four years.³⁷

Despite early successes, Superintendent Bowler knew that it would take time for members of tribal cattle associations to grasp new concepts such as cooperative management, cooperative sales, and the payment of monthly dues to cattle associations. Initially, adopting sound agricultural methods was a challenge for some tribes. During a visit to the Walker River Reservation, Associate Range Supervisor Richard Millan was displeased when he learned that certain livestock owners were using lake pasture and selling cattle outside of the cooperative—in direct violation of the tribe's business charter. Millan was further disturbed after witnessing cattle being "moved with...abandon on a high lope rather than slowly and carefully... more like a rodeo ground than a cattle pasture."³⁸ With winter approaching, Millan feared that running of cattle would reduce their weight at the worst time of year, and also damage the pasture. This urgent matter was immediately placed on the Agency's annual meeting agenda (Figure 3).

Beyond anticipated setbacks, Agency officials were not prepared for the accelerated loss of newly acquired dust-bowl cattle. Superintendent Bowler and the tribal cattle cooperatives panicked when most of the ravenous cattle died after consuming excessive forage and toxic range plants.³⁹ Bowler immediately commissioned the botanist Edith V. A. Murphey to identify and collect information on stock-poisoning plants including Death Camas, Poison Hemlock or Parsnip, and Buffalo Flower seeds. Murphey was paid by the WPA. Her initial study was in Nevada and later expanded to the intermountain West. The results of her work were published in a guide: "Stock Poisoning Plants: A Stockman's Pocket Book" in 1947.⁴⁰ While studying noxious plants, Murphey and colleagues also gathered information on native medicinal, ceremonial, and subsistence plants. The stock-poisoning plant study opened the door for a subsequent study of Indian uses of native plants.

The scientists Percy Train, James R. Henrichs, and W. Andrew Archer were key figures in a plant study launched in 1935.⁴¹ Their plans intensified and led to a cooperative agreement among the Bureau of Plant Industry (U.S. Department of Agriculture), the WPA of Nevada, and the University of Nevada, Reno, Botany Department. Train oversaw the field work, and he and his wife, Agnes Janssen Train, roamed the hills and valleys of Nevada and eastern California, and made friends with knowledgeable Indian people along the way. The Trains had the honor of meeting Shoshone Chief Temoak (or Temoke), Bronco Charlie, and other individuals who were "possessing intelligence, reliability and a wide medicinal plant knowledge."⁴² In addition to collecting, drying, and pressing thousands of plant specimens, Ms. Train recorded and transcribed all of the field notes. Her Indian informants soon gave her an Indian name meaning "one-with-a-pencil"⁴³ (Figure 4).

A main goal of the four-year botanical study (1937-1941) was to secure data on medicinal plants directly from the Indians, and to accumulate a range of herbarium specimens, including samples for pharmacological tests. The



Figure 4. Scientist Percy Train and his wife Agnes spent years collecting plant specimens in Nevada and the high desert. This photograph shows 400 ventilators and blotters scattered on a hillside near Big Creek, Nevada, 1941. Photographer unknown. (*Hunt Institute for Botanical Documentation, Carnegie Mellon University*)



Figure 5. Percy Train loads sacks of dried plants and medicinal specimens collected from Ruby Valley in 1939. Photographer unknown. (*Courtesy of the Hunt Institute for Botanical Documentation, Carnegie Mellon University*)

Indian Botanical Institute mentioned plant collecting as a potential source of tribal income in their justification for continued funding. Certain tribes gathered and sold wild-flower seeds for a time; however, to the Agency and Institute's dismay, the practice was widely criticized by ranchers for its alleged environmental impacts, and all seed sales were abruptly discontinued.⁴⁴

A number of valuable chemical agents may have been discovered as a result of the Botanical Institute's study. According to the Institute, one type of Creosote bush (*Larrea sp.*) produced an acid that was an effective food preservative. A commercial preparation of this plant was used extensively by the armed forces during World War II. Also promising, a Great Basin root, *Lithospermum Ruderale*, was of great interest to the pharmaceutical industry for its contraceptive properties.⁴⁵ Agnes Train was also impressed by a root used to treat colds that was known as Indian Balsam (*Leptotaenia multifida*). She recalled seeing "Balsamea" in Nevada drugstores by 1937⁴⁶ (Figure 5).

NEW RESERVATIONS FOR WESTERN SHOSHONE INDIANS: YOMBA AND DUCKWATER

Two new reservations were created for landless and scattered Western Shoshone Indians in central Nevada. After consulting with the families, it was clear that two reservations were preferred over one large reservation.⁴⁷ At first, several Shoshone families expressed ambivalence over having to leave their traditional homes. The Carson Indian Agency countered by offering land incentives and revolving fund loans for livestock and equipment to those willing to relocate to the new reservations.

The Yomba Shoshone Tribe was organized in 1934. Between 1937 and 1941, 4,718 acres were purchased from the Bowler, Doyle, Dieringer, and Worthington ranches in Nye County. Initially, sixteen families from the Reese River Valley moved to the reservation.⁴⁸ In 1940, the Duckwater Shoshone Tribe was formed and the Duckwater Reservation was established near Currant in northeastern Nye County. Approximately 3,273 acres were purchased from the Florio Ranch for twenty-one families from Smoky Valley, Tonopah, and Manhattan. The two new reservations had land suitable for irrigation, but lacked sufficient range lands for livestock, despite the grazing rights that came with the land. Initially, the Yomba Shoshone Tribe was permitted to run 182 head on Taylor Grazing lands (public domain) and 1,910 head on U.S. Forest Service summer range. The Duckwater Shoshone Tribe had rights for 2,500 head on public domain.⁴⁹ Since grazing rights and Revolving Fund loans fostered increased herd size, the Yomba Tribe expanded its herd from 300 to 1,554 between 1938 and 1944.⁵⁰

Families interested in farming were assigned small parcels of land. Yomba's sixteen families lived on assignments of 44 to 60 acres and Duckwater's twenty-one families received approximately 40 acres each. The BIA and local farm agents urged assignees to cultivate family garden plots and raise hay, grain, and vegetables. Farm agents also instructed assignees in successful farming and livestock methods. Tribal members soon realized that making a living by raising livestock and chickens, and cultivating potatoes and beans on small marginal plots was nearly impossible. An early Duckwater resident, Lilly Sanchez, shared her disappointment with the early farms: "How can anyone make a living on 40 acres?"⁵¹ Consequently, many Duckwater men found employment on nearby cattle ranches, and women sought work as domestics. Others worked for the tribe. Ms. Sanchez was employed by the reservation day-school from 1946-1951 and prepared hot lunches for approximately fifty school children each day.

The BIA attributed the failure of small farms to the reservation's limited resources, short growing season, and insufficient rangelands.⁵² The BIA was not totally surprised and knew that at least seventy-five head of breeding cows per family was necessary for a minimum standard of living. Thus, Duckwater families would need an additional six hundred head at a time when the reservation's meadow and range lands could not sustain an optimal herd. Range lands at Yomba Reservation were also inadequate and early assignees had similar failures.⁵³

CAMPBELL RANCH RESERVATION

Thirty Northern Paiute families from the Yerington Colony and sixty families from Yerington, and the Smith and Mason valleys voted to organize under the IRA in 1934.⁵⁴ In 1937, the Agency purchased the 1,156-acre Campbell Ranch north of Yerington with IRA funds. The ranch was divided into 30-acre farms for deserving families who wanted to farm. The number of families at Campbell Ranch soon grew from eleven to fifteen.⁵⁵ Sadly, more families were interested in relocating to the Campbell Ranch than could be accommodated. According to a local census, 369 of the 500 prospective individuals (or 106 families) were interviewed. Because of high demand, prospective applicants for the rehabilitation project were restricted to those with good social reputations and a desire to make Campbell Ranch a success.⁵⁶

Campbell Ranch came with water rights and appeared conducive to raising crops. Since there was little or no grazing land on the new reservation, livestock owners were forced to purchase hay or use their assigned lands as pasture. As elsewhere, the need for additional land was soon apparent.⁵⁷ Reflecting on the Campbell Ranch experiment, the Yerington Paiute Tribe

later blamed the BIA's limited understanding of the culture for many of the early problems. The residents of Campbell Ranch later faulted the Agency for underestimating the significance of the small extended-family unit while planning the new community:

The proposed key to the success of Campbell Ranch was to have all activities done on a communal basis...[e]verything from equipment to bulls, from branding to inoculation...and ditch cleaning.... The community experiment...did not last very long. The Campbell Ranch Numu, reflecting on their heritage, much preferred the autonomy of the extended family...to permanent, larger groups. This is evident in the movement of houses from the group setting to their individual placement on the respective rancher's assignment.⁵⁸

DRESSLERVILLE COLONY

The Washoe Tribe of California and Nevada was organized in 1934. The Dresslerville Colony is one of several small Washoe settlements in western Nevada and eastern California. Years earlier, the Dressler family had donated the original 40-acre bench above the east fork of the Carson River to thirty-three Indian families in Carson Valley.⁵⁹ The Washoe Indians also owned 66,000 acres of individually owned, 160-acre allotments in the Pinenut Range east of Gardnerville. Unfortunately, the Pinenut allotments were unsuitable for grazing, because of a lack of water and provided few resources beyond firewood and pinenuts. Consequently, most of the Pinenut parcels were leased for a small sum to the Anglo ranchers who owned nearby water rights. Local ranchers showed little interest in selling land or water to local Indians. In 1935, the tribe earned approximately \$1,600 (averaging \$0.25 per acre) from Pinenut leases.⁶⁰

To make agriculture more feasible, the Carson Indian Agency purchased 795 acres of irrigated crop or pasture lands near the head of the east fork of the Carson River.⁶¹ The tribe's agricultural enterprise was managed by a former owner of one of the acquired ranches during the initial season. A farm agent later oversaw the fledgling operation between 1938 and 1943. The tribe developed a large dairy herd, raised hogs and lambs, and cultivated Russet potatoes and Elberta peaches. As was the case elsewhere, some Washoe Indians found outside work on neighboring ranches to supplement their agricultural incomes.⁶² Although the tribe sought additional land to sustain their agricultural economy, finding willing sellers was a problem. In a letter to Senator McCarran, a prominent Carson Valley rancher shared the local agricultural community's position: "There is strong feeling in Douglas County against the sale of property to the Indians for subsistence farming."⁶³

FORT McDERMIT INDIAN RESERVATION

The Fort McDermitt Paiute-Shoshone Tribe of Nevada and Oregon was also organized in 1934. The remote northern Nevada reservation surrounds an abandoned military post established in 1865. Through a special act of Congress (49 Stat. 1094) approximately 21,500 acres near the headwaters of the Quinn River were reserved for the reservation in 1936. The reservation was further expanded following the purchase of three ranches totaling 6,714 acres by authorization of the IRA.⁶⁴ Tribal members owned over 4,000 acres of allotments, some of which were ultimately deeded to the tribe. In 1933, the resident population numbered 270; by 1944 that number had increased to 308 individuals, or 60 families.

After adopting a business charter, the Fort McDermitt Tribe launched its livestock business by acquiring drought relief cattle from the dust bowl states. The tribe wisely hired a ranch manager with \$21,000 borrowed from the IRA's revolving fund.⁶⁵ Raising cattle and harvesting approximately 1,200 tons of hay per year boosted the reservation economy, even though the carrying capacity of the land prevented total self-support. Anglo ranchers sought the help of Fort McDermitt Indian men and tribal members had a high standing in this community. Indian families were allowed to purchase goods on credit at local stores, and Indian men were given full charge of the annual community rodeo.⁶⁶ Because of a healthy job market, few tribal members went to work for the defense industries.

Other Carson Indian Agency reservations received land during the 1930s and early 1940s. For example, an act of Congress (49 Stat. 1806) increased the size of the Walker River Indian Reservation by approximately 171,000 acres in 1936. The reservation received an additional 811 acres of federal land for the Weber Dam project.⁶⁷

REHABILITATION HOUSING AND THE WPA PRIVY PROJECT

The Meriam Report identified tuberculosis (T.B.) as the most devastating disease afflicting Native American people in the 1920s. Indians disproportionately suffered from several "white man's diseases" including T.B., smallpox, measles, cholera, venereal disease, and influenza. In addition, trachoma was a frequent source of blindness. Although T.B. was of epidemic proportions across America, native populations were many times more vulnerable, for a number of reasons.⁶⁸ Native people had limited access to medical care and lacked natural immunities to these diseases. It was also common for several family members to live in small, cramped quarters with poor sanitation—conditions conducive to rampant spread of disease. Rural Indian people did not understand the disease and lacked information on

prevention. Nevada's low Indian populations did not help. While the BIA built sanatoriums on large reservations elsewhere, by 1940 there were no sanatoriums for Anglos or Indian people in Nevada.⁶⁹

Communicable diseases began a gradual decline in the 1930s and 1940s with the coming of improved telephone service, better roads and highways, and improvements in the Indian Health Services. Indian agencies began to hire health-care and social workers to travel to reservation medical facilities and promote community education. Since tribal houses, often little more than shanties, contributed to the disease problem, the BIA adopted a program to build new "rehabilitation" houses for indigent families. Indian Relief and Rehabilitation Grants for new housing were available to organized tribes, and the funds for construction materials were purchased with Emergency Relief Appropriation Act funds. Tribal members organized welfare and relief committees to help the Agency assess and prioritize the community's housing needs. Rehabilitation houses were available for little or no rent, and assignees paid from \$1.50 to \$10 a month. In cases of extreme need, community service in lieu of rent was allowed and calculated at a rate of \$1 a day. Superintendent Bowler provided the following guidance for the selection of housing recipients:

Grants should be made first to old and physically handicapped people who could never be expected to pay for needed housing facilities... (Please take advantage of these grants to fix up your old people in decent shelter). Second choice...should go to persons with very large families crowded into inadequate quarters where the head of the family could not possibly be expected to feed and clothe all of his dependents and make enough money to enlarge his house. Third choice should fall on persons who really need small sums to be spent on repairs and who could not reasonably be expected to pay for such repairs themselves.⁷⁰

A letter from Superintendent Bowler to Commissioner Collier exposed the pressure placed on Indian agencies to expediently draft house plans and establish housing needs. Unaware that standard plans were available in the commissioner's office, Bowler sought help from the carpenter shop at the Stewart Indian School. Disturbed by the lack of communication, she did not hesitate to express her frustration to Collier: "It makes us a little sick to think how much help those [standard plans] would have been had they arrived earlier."⁷¹ After reviewing Bowler's housing recommendations, Collier questioned the low cost per dwelling but soon supported the Agency's decision to build more houses of lesser quality by cutting individual housing costs. Bowler and her tribal councils were willing to sacrifice quality rather than turn away deserving housing applicants. The Agency was able to supply more people with new houses, meager as they were. The houses were fresh and clean, albeit under-insulated and lacking indoor plumbing and electricity—even in town colonies with nearby utilities.



Figure 6. The Washoe Tribe provided most of the labor to construct rehabilitation houses at Dresslerville. The WPA built sanitary privies for the new houses and replaced old privies at existing buildings. Photographer unknown. (*NARA, Pacific Region, RG-75, BIA, CIA*).

Starting with standard designs, the agency adapted the houses to the needs of each reservation community. One-to-four-room cement-block houses were built at the new Duckwater, Yomba, and Campbell Ranch reservations. Established reservations also built rehabilitation houses. In Owens Valley, Paiute Indians living in Big Pine, Lone Pine, and Bishop reservations constructed two-to-six-room rehabilitation houses of native pumice brick on new tracts of land from an exchange with the Los Angeles Department of Water and Power.⁷² Variations in housing were most pronounced in southern Nevada. To relieve extreme summer heat, Moapa Reservation homes usually had screened sleeping porches, with canvas drops for the cooler months. In 1942, construction costs ranged from \$518 for a one-room house to \$1,404 for a five-room house.⁷³

Emergency relief funds for housing were limited. Carson Indian Agency's 1936 housing appropriation was a modest \$11,200; however by 1938, the appropriation had increased to \$81,000, and in 1942, reached \$87,746. Costs

were kept low by using Indian labor. When the Washoe Tribal Council affirmed its intent to build twelve concrete tile houses at the Dresslerville Colony, the tribal council offered Indian labor, with certain conditions. Laborers would contribute up to half of their time; the other half (or more, funds permitting) would be paid by the federal government.⁷⁴

The Agency established a number of rules for residents of new rehabilitation houses. Although assignees agreed to the terms in the housing contract, the Agency had not anticipated problems that arose from tribal customs related to death. It was BIA policy to reassign the houses in the event of abandonment or a resident's demise. When the Agency attempted to reassign Harry Sampson's deceased father's house, it was apparent that the son did not plan to relinquish the Reno Indian Colony home. The matter was resolved only after the Agency physically relocated the house to a different location.⁷⁵ Years later in the 1970s, a member of the Las Vegas Indian Colony alluded to continuing conflicts with housing reassignments: "We move when someone dies; this custom still exists when older people die and if a new home is built and someone dies in it, no one would want to live in it"⁷⁶ (Figure 6).

There was high demand for new rehabilitation houses on most reservations. Residents at the new Duckwater and Yomba reservations often decorated and furnished their homes and planted flowers in their yards. The Agency was therefore a little surprised when certain members of the Moapa Paiute Tribe resisted moving into newly constructed homes. It seemed that some residents preferred to remain in the houses they themselves had built from scrap materials. Other resistance came from elderly Indians who preferred their scattered brush huts to the clustered rehabilitation houses.⁷⁷

The BIA was aware that combating communicable diseases would require additional actions in addition to building new houses. As part of a U.S. Public Health Service campaign, the Nevada State Board of Health offered to build sanitary privies with WPA-paid labor. Between 1933 and June of 1942, nearly three million sanitary privies were constructed across the country.⁷⁸ Public health administrators made acquisition easy, and property owners or tribal governments were responsible only for the costs of materials.⁷⁹ WPA laborers were hired to demolish old privies and select safe locations for the replacements.⁸⁰ The Carson Indian Agency requested funds to build concrete slab-and-bowl type privies for new houses and existing homes in need of repair. Sanitary privies were installed at residences and community buildings on all Agency reservations and colonies. In 1939 alone, 255 privies were installed at Nixon (Pyramid Lake), Fort McDermitt, Schurz (Walker River), Fallon, and colonies in Winnemucca, Elko, Battle Mountain, Dresslerville, Reno, Lovelock, Ely, and Yerington.⁸¹ In 1940 the Carson Indian Agency acquired 440 more privies at a cost of \$48.49 each.⁸² Reservation shop classes helped with sanitation problems by building fly traps for each home for one dollar each.⁸³

ROAD IMPROVEMENTS AND ACCESS

Seldom graded highways leading to reservations and primitive reservation roads contributed to the inaccessibility of medical care and restricted access to the outside world. Consequently, the Agency spent substantial funds on improvements to roads, primarily at the two largest reservations. Between 1936 and 1943, \$334,488 was spent on Pyramid Lake roads and \$160,448 was spent on Walker River roads.⁸⁴ The amount of work needed was daunting and, of course, exceeded the available funds. Thus, the Agency had to be creative and draw from various funding sources and labor pools. A number of road projects were completed with help from the regular Civilian Conservation Corps (CCC), the Civilian Conservation Corps, Indian Division (CCC-ID), and the WPA. Per BIA policy, the Agency hired Indian laborers first. A three-mile portion of the Pyramid Lake Highway on the west shore of the Pyramid Lake Reservation was improved in 1940. Somewhat controversial, this stretch of road actually helped the Sutcliffe area dude ranches as much or more than it did the Pyramid Lake tribe. The tribe fortunately reaped more benefits from improvements to the seventeen-mile highway between Nixon and Wadsworth, jointly funded by the Agency and the WPA.⁸⁵ To the south, the United States Forest Service's Reese River CCC program and Nye County built a highway over Ione Summit that linked Tonopah and Belmont and provided access to the Yomba Reservation⁸⁶ (Figures 7 and 8).

By 1941, the BIA knew it was time to hold a conference to hear about tribal needs. Although some questions drew favorable responses, several tribal representatives complained when asked about the condition of reservation roads.⁸⁷ The Duckwater Tribe's Vice-Chairman Raymond Graham was irritated because twenty assignees still had to drive over fields to gain access to their homes. The Moapa Tribe cited a lack of maintenance for a reservation road built two years earlier. Similarly, the Reno-Sparks Colony Chairman Harry Sampson was concerned that a road through the colony was paved but never oiled. The Walker River Tribe Vice-Chairman McKinley Powell expressed similar frustration: "We have a very bad road down there...almost useless to anyone.... When you go any place in a car, by the time you get back the glass is all broken."⁸⁸ Although the Agency attempted to maintain reservation roads more regularly, few were maintained following the end of the CCC and CCC-ID programs in 1942.

THE CIVILIAN CONSERVATION CORPS – INDIAN DIVISION

The Indian Emergency Conservation Work (ECW) Program, later renamed the Civilian Conservation Corps (CCC-ID), was established in April of 1933, preceding passage of the IRA. More than 85,000 Native American men from



Figure 7. The WPA paid Indian laborers to work on the construction of new roads. Indian men are shown grading the Indian Service Road at Pyramid Lake Reservation. Photographer unknown. (*Dodson Collection, Nevada Historical Society*)



Figure 8. The highway between Nixon and Wadsworth was a joint project of the Carson Indian Agency and the WPA. The photo shows a newly graded section between Nixon and Wadsworth in Dead Ox Canyon. Photographer unknown. (*Courtesy of Dodson Collection, Nevada Historical Society*)

twenty-four western states participated in this special CCC Indian program. An additional 3,149 non-Indian men also participated in the CCC-ID.⁸⁹ The CCC-ID was a major New Deal program, and at least \$72,000,000 was expended on reservation improvements during the nine year program. According to BIA reports, 602 men were enrolled in the Carson Indian Agency's program between June 19, 1933, and June 30, 1942. The Carson Indian Agency's CCC-ID program was small in comparison to those of Pine Ridge, Navajo, Cheyenne River, Fort Apache, and United Pueblo agencies. To illustrate, its expenditures for "Buildings and Plant" and "Land and Improvements" amounted to .0132 percent of the total CCC-ID expenditure for seventy-two participating Indian agencies.⁹⁰ Even so, improvements in water development, soil erosion, and range lands were impressive by any standard, and the condition of reservation lands improved dramatically thanks to the CCC-ID and cooperating agencies.

Like the regular CCC, conservation work was offered to unemployed men in need of training.⁹¹ Despite general similarities, there were several differences between the CCC and the CCC-ID. National CCC Director Robert Fechner, Secretary of Interior Harold Ickes, and Commissioner Collier recognized the special needs of reservations and modified the CCC program to accommodate special needs. The CCC-ID waived age and marital restrictions. Indian enrollees had to be least seventeen years old, in good health and of sound character. Married men were welcome and there was no upper age limits in the CCC-ID. Furthermore, Indian men were allowed to live with their families in special family camps or could choose to live at home and commute to work. Another major difference between the two programs was the management. CCC-ID camps and projects were managed by BIA employees rather than the United States Army and federal agencies. BIA employee Frank Parcher initially coordinated CCC-ID activities for the Carson Indian Agency. Another difference was the resident base. While most regular CCC enrollees in Nevada were brought in from other states, the majority of CCC-ID enrollees worked on their own or at other Nevada reservations.⁹²

While the regular CCC occasionally shared equipment and supplies with the CCC-ID, Indian enrollees were seldom assigned uniforms.⁹³ This became an issue for Indian men who were "constantly thrown in contact with white enrollees..."⁹⁴ The unequal treatment of CCC-ID with regard to clothing allowances was raised during an "Open Forum Hour" at Schurz, on December 3, 1939 attended by Senator Patrick McCarran.⁹⁵ McCarran may have followed up on the complaint: That winter, WPA-paid seamstresses from Stewart turned out 407 khaki shirts and 92 pairs of trousers for the CCC-ID enrollees.⁹⁶

From time to time, the Agency was confronted with a shortage of local Indian labor to complete reservation projects. Not surprisingly, Indian men usually preferred to work for the higher wages offered by local ranchers. Although it was the Agency's policy to first select men from the reservation,

non-resident Indians were sometimes hired to complete the work if approved by the tribal council. During the course of the CCC-ID program, Indians from around the country worked for the Carson Indian Agency, and an all Navajo camp was established at Pyramid Lake.⁹⁷ Relationships between resident and non-resident Indians were usually positive, and the men became acquainted through work and sports. The issue of taking fish at Pyramid Lake was an exception—one that resulted in a new agency regulation:

...visiting Indians to the Nixon Reservation will be permitted to take only two fish per day...and not more than ten fish during the season.... [T]he visiting Indians will not be permitted to sell their fish. Indians living on the Pyramid Reservation are permitted to catch any amount of fish and can sell them under supervision. Such fish must be stamped with the federal seal.⁹⁸

The main goal of the CCC-ID program was to improve reservation lands so that tribal members could make a living from ranching and farming although those who intended to leave needed marketable skills.⁹⁹ A realistic Commissioner Collier realized that these men would have to compete in the outside workforce.¹⁰⁰ On-the-job training proved to be more popular than formal classroom instruction, despite pressures from Washington, D.C., to add more formal studies. Instead, BIA officials and farm agents provided practical training in truck and heavy machinery operation, firefighting, land surveying, and ranch techniques, including animal husbandry¹⁰¹ (Figure 9).

Long distances between reservations and poor road conditions required the establishment of mobile CCC-ID camps to work in remote places. Portable camps that included up to thirty men and staff worked on range projects in the far corners of the Agency's jurisdiction. The self-sufficient camps were complete with sleeping cars with multiple bunks, kitchen and dining cars, storage sheds, offices, and separate sleeping cars for supervisory personnel.¹⁰² At Pyramid Lake Reservation where considerable work was planned, semi-permanent tent camps were established at various locations around the lake. One camp accommodated up to fifty men and their families, and another near Sutcliffe housed single men in wood-floor tents¹⁰³ (Figure 10).

Tribal governments played an active role in the planning work programs and selection of individuals for leadership positions. On the eve of World War II, and in light of a waning domestic agenda, the CCC-ID had little money for materials and equipment. In order to complete several projects, the program was forced to rely on other organizations and agencies. Thanks to the Technical Cooperation (or TC-BIA), Soil Moisture and Conservation Operations (SMCO) and the United States Forest Service, the CCC-ID was able to realize many of its goals. Other collaborations occurred between the Grazing Service and the BIA's own Indian Irrigation Service.¹⁰⁴ The TC-BIA and SMCO performed valuable



Figure 9. Mobile CCC-ID camps were self-contained and accommodated up to 50 men. The mobile camp was set up at Schurz while CCC-ID enrollees worked on conservation projects on the Walker River Reservation. Photographer unknown. (*Hilman Tobey*)



Figure 10. A semi-permanent CCC-ID tent camp was established near Sutcliffe on the Pyramid Lake Reservation. Photographer unknown. (*NARA Pacific Region, RG-75, CCC-ID, Decimal files 1934-1942, File 1003.1*)

reconnaissance surveys on reservations to assess environmental conditions and determine needs.¹⁰⁵ These inspections helped establish the suitability of lands for specific crops and grazing. The survey results also helped justify work plans for the rehabilitation of reservation land, including hiring of soil conservationists.

CCC-ID IMPROVEMENTS TO RESERVATIONS

Pyramid Lake Reservation

The majority of CCC-ID range improvements occurred at Pyramid Lake Reservation with Walker River Reservation following a close second. Fort McDermitt came in a distant third in program expenditures, with Summit Lake and Fallon even further behind.¹⁰⁶ With help from the SMCO, drift fences were built around the entire reservation boundaries, new charcos (stock ponds) were created, and a major reseeding program was undertaken.¹⁰⁷ Dozens of wells were drilled and a thirty-thousand-gallon water storage tank was installed at the north end of the lake for winter range.¹⁰⁸ An additional eight miles of fence was constructed around Marble Bluff¹⁰⁹ (Figure 11). Overnight (range-rider) cabins were built at both the Pyramid Lake and Walker River Reservations. Superintendent Bowler occasionally used the CCC-ID to perform ancillary tasks that involved collaboration with local governments. After several years of dropping lake levels, Washoe County offered to hatch fish for Pyramid Lake; in exchange the Agency was to provide the spawn and construct rearing ponds to maintain the fingerling-size fish.¹¹⁰



Figure 11. Indian CCC-ID enrollees fenced the entire perimeter of the Pyramid Lake Reservation. Photographer unknown. (NARA, RG-75, CCC-ID Decimal files 1934-1942, File 1003.1)

Walker River Reservation

For decades, Anglo farmers had diverted Walker River water to upstream farms and hay fields. This posed a serious problem by late summer, when the river that flowed through the reservation was usually dry. After years of water disputes, the BIA decided to build a dam to impound water that would otherwise be lost. Weber Dam was completed in July of 1935. The dam allowed the Walker River Tribe to expand its irrigable lands and actively engage in agriculture. The Weber Reservoir was one of several large irrigation projects funded by a \$6,000,000 Public Works Administration (PWA) grant.¹¹¹ Approximately \$130,000 of PWA money was allocated for dam construction and labor was provided by the CCC-ID and Indian Irrigation Service.¹¹² Weber Dam was one of the Agency's first CCC-ID projects. Beginning in 1933, enrollees began the preparatory work, cleared trees and brush, and built a new road from the railroad depot at Schurz to the dam site.¹¹³ By July of 1934, the reservation's entire workforce was working on the dam, its spillway, and concrete outlet tunnel.

The years between 1940 and 1942 were equally busy years for the CCC-ID. By then, Weber Dam had been completed and enrollees were mainly assigned to range improvements. A mobile camp was sent to Schurz on the Walker River Reservation to build a series of drift fences and water storage features.¹¹⁴ The long list of accomplishments included reseeding of the West Lake pasture, installing water storage tanks, windmills, troughs, and charcos in the Double Springs, Pilot Cone, Robber's Roost, and Long Valley units.¹¹⁵

Moapa Paiute Reservation

One of Nevada's few perennial water bodies, the Muddy River flows through the Moapa Reservation in southern Nevada. Reliable water and high average temperatures allowed the cultivation of a variety of crops, including spring wheat, oats, and alfalfa. Erosion, however, was a constant problem due to yearly floods. Crops were frequently drowned and fertile lands were washed away. A series of dams were planned to protect the budding farming community. The United States Forest Service and Soil Conservation Service provided technical expertise and materials for the White Narrows Reservoir and two rock-filled, earthen dams on the reservation. The primary flood-control and storage dam, White Narrows #1, was built with CCC-ID labor. The dam benefitted the reservation as well as downstream water users in the lower Moapa Valley. At least four hundred additional acres of irrigable cropland were planted as a result of the dams.¹¹⁶ For a while, the tribe produced enough crops to make a profit, but during the early 1940s, increased alkalinity gradually reduced the productive acreage. In 1953, the tribe decided to lease their land to a local dairy.¹¹⁷

Other Reservation Improvements

Rodent-control work was carried out on all reservations with cultivated land. Small CCC-ID crews performed the work under the supervision of the

United States Fish and Wildlife Service (formerly the Bureau of Biological Survey). Rodent eradication was conducted at Owyhee, Pyramid reservation, and in the Fallon and Schurz areas.¹¹⁸ Small CCC-ID projects were also completed at Yomba and Campbell Ranch reservations, Washoe Tracts, and Carson Indian School.¹¹⁹ Erosion-control work occurred on all reservations, with special attention paid to river banks. At Dresslerville, crews stabilized the East Fork of the Carson River, Clear Creek, and the Carson River near Stewart Indian School. Twenty-two miles of road was also built at Summit Lake Reservation.

In summary, the CCC was a highly visible program, and its accomplishments were regularly shared with the public through news releases. The CCC-ID was no different than the regular program, and the BIA regularly published lists of reservation improvements. As of July 1, 1940, the Agency's CCC-ID program had constructed 607 miles of boundary fences, 140 miles of truck trails, 88 miles of irrigation ditches, 52 springs developments, 52 sets of troughs, 44 charcos and reservoirs, 9 range-rider cabins, 27 new wells, 15 bridges, and 21 erosion-check dams. Non-construction projects included the eradication of 194 acres of poisonous weeds, and clearing 22 square miles of gophers, and the reseeding of 33 square miles of overgrazed rangeland.¹²⁰

SPORTS AND RECREATION

CCC-ID enrollees regularly mingled with co-workers and the off-reservation community. To fend off boredom and to seek community recognition, the Agency encouraged sports competitions and participation in parades, festivals, and rodeos. Sports were highly popular and participation levels were high. Athletes from Stewart Indian School and nearby reservations were formidable competition to regular CCC boxing, baseball, and basketball teams, as well as town leagues. On more than one occasion, enrollees from Stewart Indian School played ball with inmates from the Nevada State Prison.¹²¹

Boxing was extremely popular and Indian boxers trained rigorously. Several athletes became serious contenders. In 1939, one Stewart heavyweight, Gardner Allen from Fallon, fought at the Amateur Athletic Union Nevada, Wyoming, Colorado, Utah, and California Golden Glove amateur fight tournament in Reno. Burdett Ochio, Ned Cutcher (who purportedly fought Rocky Graziano), Lawrence Raye, and Dick Smith made the list of "Class A ringsters."¹²² In 1941, five enrollees from Pyramid Lake entered the Reno Golden Glove Tournament, and one walked away with the championship for his weight category. Ed Jones, the education advisor at Camp Antelope in Coleville, California, described an awkward match between CCC-ID enrollees from Stewart and regular CCC enrollees from the "rough streets of New York":



Figure 12. CCC-ID enrollees practiced their boxing techniques during their free time at Summit Lake Reservation. Photographer unknown. (*Hilman Tobey*)

Many volunteered for the boxing team...but none would bother to train for the match with the Carson [Stewart] Indian School.... [T]he return trip was very quiet. Well-trained Indians, long accustomed to close to mile-high altitudes, taught the boys from the Bronx some rather severe lessons. From then on I had no trouble getting enrollees to train¹²³ (Figure 12).

Mobile CCC-ID crews occasionally participated in tournaments in the communities closest to their work posts. While camping in remote areas of reservations, enrollees often boxed with their camp mates to pass the time and improve their skills. Trips to town were few, and when they materialized, the enrollees occasionally celebrate too hard. Intoxication was a concern, and in extreme cases, fights broke out. At the time, the Indian Liquor Law was in force. The sale of liquor to Indians was prohibited, although the law was loosely enforced in rural Nevada. Carson Indian Agency officials were required to investigate any and all incidents, from intoxication to reckless driving. After investigating a complaint that regular CCC enrollees were providing liquor to CCC-ID enrollees at Summit Lake, officials learned that Indian enrollees were buying drinks right over the bar in Denio and Gerlach.¹²⁴

News of incidents traveled fast. On August 7, 1938, acting CCC Director J. J. McEntee intervened when he learned that enrollees from the Yomba Indian Reservation had engaged in a free-for-all fight on Fallon's main street. The project manager, Frank Parcher, blamed the incident on understaffing and difficulties of watching over off-duty enrollees who would wander off to visit family and friends while in town. In the enrollees' defense, Bowler pointed out that similar incidents were common with heavily supervised, regular CCC enrollees. After an exhaustive investigation, the agency learned that the entire group, including some non-enrollees, had been arrested. The men ended up pleading guilty to disorderly conduct after being given the option to plead out or remain in jail. In line with CCC policy, a few of the instigators were promptly discharged, and a junior foreman was fired for allegedly drinking with Indian enrollees.¹²⁵

Other documented incidents revealed discrimination toward Indians. CCC-ID enrollees working in Owens Valley, California complained to Agency officials after being denied counter service at drugstores as well as refusal of haircut services at barbershops in Bishop, California. Cases of discrimination however, were seemingly less apparent when it came to competitive sports. Although the "Brown Bombers" were included in an Elks Club baseball tournament, the CCC-ID team was passed over by organizers of the annual Owens Valley tournament (with a \$100 purse) in August of 1939. Such actions did not go unnoticed. Charles A. Green, Jr., an Agency representative, and J. M. Wright, owner of Bishop Hardware, tactfully brought this matter to the attention of local businesses. After Green shared the CCC-ID's local accomplishments (and sizeable expenditures made in town) the merchants had a quick change in attitude. As a show of good will, the enrollees were given complimentary tickets to the annual celebration and rodeo.¹²⁶

To prevent problems, the Agency encouraged CCC-ID enrollees to participate in community events that would promote a better understanding of their native culture. One high-profile event and an honor to local Native Americans was being involved in the Wedding of the Waters ceremony in Inyo County, California. The Carson Indian Agency was pleased by its representation at the three-day Mt. Whitney-Death Valley Highway dedication on October 29-31, 1937. A host of dignitaries took part in the celebration including President Roosevelt who officially opened the 17.6-mile Darwin Cutoff by flashing a telegraph signal from Washington, D.C.¹²⁷ CCC-ID enrollee Gerry Emm competed for and won the role of Indian Runner; Gilbert Trillius served as alternate. In a symbolic ceremony, a gourd was carried from the nation's highest lake and emptied in the lowest body of water in the Western Hemisphere.¹²⁸ Emm's role was to carry the ceremonial gourd filled with icy water from Lake Tulainyo on Mt. Whitney to the terminus of the new highway at Mt. Whitney Portal. Here a barefoot and winded Emm passed the gourd to the next of several participants, a Pony Express impersonator. The gourd was then transported by covered wagon, stagecoach, train, and automobile, to its final destination at Badwater in Death Valley (Figures 13 and 14).



Figure 13. Enrollee Gerry Emm and the Stewart Indian School Band participated in the Inyolden Days parade in Owens Valley in October of 1937. The parade was a part of the three-day Wedding of the Waters highway dedication ceremony. Emm was the Indian Runner in this event. Photographer unknown. (*Newton and Jean Price collection, courtesy of James Price*)



Figure 14. CCC-ID enrollees from the Walker River Indian Tribe decorated a flat bed truck for a CCC birthday celebration parade in 1937. Photographer unknown. (*Lucille Hamner Collection, Nevada State Museum*)

The ceremony was carefully orchestrated by Father John J. Crowley and a local committee. Full of symbolism and forethought, organizers did not overlook the role of native peoples. As reported in the *Inyo Independent*: "The red man had come down from the heights of Red Man's domain to the verge of the white man's encroachment."¹²⁹ Gerry Emm was a guest of honor at a banquet hosted by California Governor and Mrs. Frank F. Merriam. The Carson [Stewart] Indian School band also played at the dedication ceremony and was a participant in the Inyolden Days parade where they won first prize. Women from the Wa-Pai-Shone Trading Post participated by selling local Indian crafts from the back of a CCC-ID truck throughout the weekend event. Their traditional handicrafts garnered much interest from visitors and tribal craftsmen learned the value of their skills.¹³⁰

Events sponsored by the CCC-ID were another way of averting crumbling cultural divides. CCC birthday celebrations were held each year in honor of the popular program. The entire reservation community usually participated in these events. A typical celebration was the seventh anniversary CCC bash at Nixon on April 12, 1940 which included bull riding and roping at the rodeo grounds, sack races, foot races, and a tug of war among Sutcliff, Stewart, and Nixon CCC-ID teams. Navajo dancers from the Sutcliffe CCC-ID camp performed their sacred YEI-BE-CHAI dance and the Pyramid Lake Paiutes performed a traditional circle dance. Northern Paiutes from around the region were invited to the seventh anniversary celebration at the Fallon Indian Reservation. This celebration included a traditional feast and dancing, three rounds of boxing, and baseball games with the Camp Newlands and Camp Carson River CCC teams. The Navajo dancers from Pyramid Lake arrived in bright colored shirts and large Stetson hats and wooed the audience with "wild, weird chanting and shuffling steps."¹³¹ Other activities included egg races, sack races, and a concert by the Stewart Indian School Band. The event was not complete without gambling, and both men and women indulged in an ancient stick game.

NATIVE CRAFTS AND SEWING PROJECTS

The IRA encouraged Indian artistic expression and creativity through the production and sale of traditional crafts. Reviving native heritage and culture was viewed as a way to overcome the ills of the past. Congress established the Indian Arts and Crafts Board in 1935 and hired the Austrian artist Rene d'Harnoncourt as the new director. Traditional crafts were soon taught at Indian schools and through tribal arts and crafts programs.¹³² Producing native crafts also provided a much needed source of income for Indian women and their families (Figure 15).

The Wa-Pai-Shone Craftmen was incorporated in the State of Nevada in 1936.¹³³ The cooperative was managed by a Washoe Indian, Amy Jones, who was paid a respectable salary of \$2,000 per year. The Wa-Pai-Shone was headquartered at Stewart, and because of its success, a second trading post was established at Lake



Figure 15. Superintendent Alida Bowler's successor, Don Foster, and Irene McCauley (Washoe Tribe) examine the Indian crafts at the Wa-Pai-Shone Cooperative in 1943. Photographer unknown. (*Indians at Work*, Vol X1, Sept/Oct 1943, No 3)

Tahoe in 1938. The Wa-Pai-Shone's main mission was to facilitate the sale of tribal creations, mainly to tourists. The types of craft often differed by tribe. Pyramid Lake women were the leading craft producers and were highly skilled at tanning hides and producing high quality buckskin clothing and horse gear. The Walker Lake Paiute Tribe was the second largest producer of buckskin and leading experts in beadwork and making pitch-covered water bottles, and rugs. Tribes such as the Fallon Paiute Shoshone Tribe made Indian dolls and rugs.¹³⁴ (Figure 17).

Excitement spread through the Agency when the Wa-Pai-Shone was asked to exhibit its wares in the North American Indian Exhibit at the Golden Gate International Exposition in San Francisco, in 1939. Of the forty "Indian artisan" demonstrators, at least five basket makers were sponsored by the Carson Indian Agency: Carrie Bethel of Lee Vining, Mamie Joaquin and Mary Wrinkle of Darwin (Death Valley), Mary Lowe of Schurtz, and Nettie Barber of Woodfords.¹³⁵

Given the emphasis on reviving traditional crafts, Commissioner Collier and Superintendent Bowler were understandably disappointed when the Agency's popular crafts program was dismissed by the anthropologist Julian Steward. In a report to the BIA, Steward noted that the Western Shoshone had few surviving traditions with regard to handicrafts. The report was never distributed, and Steward's future usefulness to the agency was scrutinized.¹³⁶



Figure 16. WPA seamstresses from Lovelock Colony display their handiwork. Photographer unknown. (Courtesy of the Lucille Hamner Collection, Nevada State Museum)

Indian women earned money in other ways by producing a variety of dry goods. Most tribes with community houses or buildings participated in the rehabilitation sewing project. Full-time seamstresses could earn \$45 per week (the regular WPA rate for unskilled workers), and leaders earned up to \$50 per week. Seamstresses with small children were allowed to work part-time so participants were often paid on a piecemeal basis or compensated with fabric or print dresses.¹³⁷ The women produced a variety of high quantity articles including overalls, band uniforms, khaki shirts, flannel underwear, gloves, dresses, baby clothes, mattresses, curtains, bedding, and towels. Finished items were normally purchased with relief monies and distributed to needy reservation families. The sewing projects were deemed worthwhile albeit the program was not self-supporting. A social worker, Lucille Hamner, acknowledged this fact in one of her reports:

[S]ewing projects cannot operate efficiently enough for us to market the products in competition with factory made articles and still pay the women a reasonable amount for their labor. We are telling people that Indians may buy the articles and the money will go into the tribal funds, and when they are given as relief they are to be paid for in labor, but on the whole there is no return in money for the articles, though the Indians are the persons who get the benefit.¹³⁸

NATIVE AMERICAN RELIGION AND TRADITIONAL CELEBRATIONS

The teens and twenties were bleak times for ancient Indian customs, traditions, and native religions in many parts of the country. Christian churches wielded a powerful influence over the federal government, particularly within the BIA.¹³⁹ For years, the BIA had allowed missionaries full access to reservations and Indian schools to advance their assimilation goals.¹⁴⁰

The overriding objective of missionaries and religious reformers was to Christianize and westernize the American Indian. Many missionary groups discouraged Indian dancing and ceremonies, believing that such activities took time away from raising crops and livestock. Assimilation policies were more prevalent in the American Southwest than in the Great Basin.¹⁴¹

Commissioner John Collier was strongly opposed to assimilation and was an Indian advocate long before he was the Indian Commissioner. He and his supporters had fought for Indian religious freedom and the reform of federal policies that suppressed Indian traditions, particularly in the Southwest. Not surprisingly, coalitions of missionaries vigorously fought the IRA and the changes it espoused. While a handful of Protestant leaders supported the IRA, most Christian missionaries took issue with Collier's reforms. In general, Nevada Indians escaped the controversy over Indian dances and ceremonies and witnessed few constraints. As Stephen Crum pointed out, Western Shoshone Indians never gave up the fandango.¹⁴² As a teenager, the Duckwater resident Lily Sanchez attended one of these events at the Yomba Reservation. She remembers the excitement of watching the dancing that lasted through the night and continued for several days, as well as the hand and card games that took place during the day.¹⁴³ Owens Valley Paiute, Truman Buff recalled that a lot of "pioneers" attended their fandangos. Typically, round or circle dances were performed around a big fire within a circular willow fence at these events.¹⁴⁴ At Nevada's Diamond Jubilee in Carson City (celebrating seventy-five years of statehood), Indians took part in the annual parade and introduced non-Indians to native food, crafts, and dancing. At nightfall, however, a sagebrush barricade was used to keep the public away from the all-night festivities.¹⁴⁵

Nevada was introduced to the Native American Church (NAC) by the 1920s. Popular throughout the West, its teachings and rituals were derived from Christianity, peyotism, and native medicine. Peyote proselytizers such as the Washoe Ben Lancaster and half Washoe, Franklin York, are credited with firmly establishing peyote religion in western Nevada.¹⁴⁶ Earlier use of the drug was sporadic. According to the anthropologist Omer C. Stewart, a Sioux Indian, Sam Lone Bear, conducted peyote rituals in the Fallon and Pyramid Lake areas in 1929.¹⁴⁷ Stephen Crum reported that Western Shoshone at the Fallon Reservation had adopted the peyote religion by 1939. Elsewhere, the BIA reported that Fort McDermitt Indians were using peyote at Episcopal

church services.¹⁴⁸ Commissioner Collier refused to take a stand against peyote use in religious ceremonies although a number of Indians themselves rejected it because they believed that it was dangerous. On a few occasions, the Agency intervened. Superintendent Bowler long suspected that Ben Lancaster was dealing in morphine and arranged to have him watched; however, only peyote and sagebrush was found during a search of his vehicle. Lancaster was eventually run out of town and a few years later, was arrested in Reno.¹⁴⁹ The late Corbett Mack (Walker River Paiute Tribe) shared his impressions of a peyote ceremony he attended in Wellington:

Act crazy after that [peyote meeting]!.... [A]ct worse than any drunk.... [And] them *peeyot* men, they're all wearin' Navajo blankets around their neck.... [A]ctin' crazy outside...dancin', just like they're *pahmoodayp* [smoking opium].¹⁵⁰

The popularity of the NAC dwindled after the 1930s but not for long. The new administration and BIA's support of Indian religious freedom was evident in a 1940 issue of *Indians at Work*. The article referred to peyotism as the bridge between the old and the new, with the NAC being an emergent Indian culture that condemns drunkenness but does not profess to abandon the old ways and tradition, but instead accepts change as a means to insure a future for its people.¹⁵¹

IMPROVEMENTS IN INDIAN EDUCATION

We are trying to provide schools equal to the best white schools and under the [Indian] Reorganization Act we are supplying to Indians an opportunity for advanced education in colleges and professional schools—John Collier, 1937¹⁵²

The New Deal also meant big changes in Indian education. By the mid-1930s, the BIA and Alida Bowler had closed inferior Indian schools, including those at Battle Mountain and Elko. Emphasis was on day-schools and children remaining with their families. Stewart Indian School remained open for the most needy children. By 1941, the Agency oversaw five reservation day-schools and the Stewart Boarding School in Carson City. An estimated seven hundred students attended off-reservation public schools while others attended the Sherman Institute in Riverside, California.¹⁵³ In rural areas, Indian children attended BIA run elementary schools. Reservation day-schools were opened at Campbell Ranch Reservation in 1941 (and closed in 1943) and in the new Yomba and Duckwater reservations in 1939 and 1941, respectively. The Walker River day-school operated until the end of World War II.¹⁵⁴



Figure 17. Yerington School District opened its doors to Indian students in the late 1940s. Northern Paiute student, the late Edgar Harry (Northern Paiute) and classmates pose for a photo on the senior bench, ca. 1951. Harry was inducted in the Yerington High School Football Hall of Fame. Photographer unknown. (*Joanne H. Botsford*)

Congress passed the Johnson-O'Malley Act (JOM) in 1934, which authorized the BIA to contract with states and political subdivisions for educational services for Indian students. Eventually the Department of Education assumed the BIA's role. The JOM authorized the BIA to compensate state and local school districts that served Indian students, for the loss of taxes.¹⁵⁵ Still, some school districts were hesitant to accept Indian students because of the fear of diseases and inadequate funding from tax exempt reservations. Indian students were still turned away by some school districts despite the JOM. Such was the case in Yerington where the school board refused to admit Indian students to the Yerington School. They reasoned that disease, mental disorders, and the costs of a new bus, bus driver, and teacher exceeded the maximum payment per pupil.¹⁵⁶ Over time, sentiments began to change, and the BIA had contracted with all local school districts in Nevada by 1947 (Figure 17).

Reservation day-schools were gradually closed or converted to public schools. As a result, children oftentimes rode a bus for considerable distances. Indian parents agreed to the long rides since they wanted the best educations for

their children. The last reservation day-school at Fort McDermitt Reservation closed its doors in 1956 and its eighty-seven Paiute students in grades one through ten were transferred to a new public school in town.¹⁵⁷ Some students with family hardships continued to attend the Stewart Indian School where room and board were provided. By the 1960s only orphans and children from remote areas were admitted to Stewart Indian School.¹⁵⁸

The focus of Indian education concentrated mainly on elementary- and secondary-level schooling although a growing number of Nevada Indians successfully obtained BIA loans to pursue an advanced education. According to Crum, three Western Shoshone students including a woman, attended college during the New Deal years. A Walker River Paiute, Walter Johnson, graduated from Redlands University in southern California in 1936. A college football star, Johnson was inducted into the American Indian Athletic Hall of Fame in 1973.¹⁵⁹ The anthropologist Ruth Underhill followed the progress of eighteen Paiute Indians who pursued advanced training in business, home economics, teaching, and engineering (others completed vocational training in dairying, carpentry, and agriculture).¹⁶⁰ Indian education had clearly entered a new era.

IMPACTS OF THE INDIAN NEW DEAL

To this day, the controversy over the successes and failures of the New Deal rage on. For Indian people, New Deal programs successfully increased many reservation land bases, improved range conditions, promoted better health and living conditions, and taught many new skills to both men and women. Programs such as the CCC-ID and SMCO, and technical training from range managers, farm agents, and forest personnel helped launch ongoing agricultural programs on reservations. The establishment of Indian Health Services and collaborations with state health departments dramatically reduced communicable diseases. Positive change also came about in the mindset and practices of the BIA. By 1945, at least 65 percent of BIA employees were Native Americans.¹⁶¹

John Collier's fight for religious freedom and tolerance of native customs gradually improved the public's attitude toward Indian people. As noted, Carson Indian Agency tribes suffered less oppression than neighboring tribes in the American Southwest and Midwest. Although the BIA encouraged Indians to practice their religion and traditions, Nevada's rural nature and small populations shielded tribal groups from the religious suppression that was occurring around them. The Western Shoshone took the initiative to sponsor the Sun Dance and similar ceremonies with little resistance.¹⁶² The strong missionary influence and assimilation efforts were relatively insignificant in most of the Great Basin.¹⁶³

The IRA and New Deal programs resulted in positive gains in education

and employment opportunities. A Northern Paiute, Dewey Sampson, was the first Native American to win a seat in the Nevada Legislature in 1938, and was elected by a predominately non-Indian population. Sampson fought for old-age benefits, aid for the blind, and equal opportunities for his people. He also encouraged his people to become involved in off-reservation activities.¹⁶⁴

Over time, tribal governments garnered strength and support from its membership as well as outsiders. Native Americans became more politically savvy and understood their rights. Unfortunately, the IRA did not eliminate poverty. In general, only those Indians who migrated to urban areas realized modest financial gains.

For decades, the concept of self-government and elections were difficult and contrary to the traditions of Indian people. In a commissioned report to the Agency, the anthropologist, Julian Steward, criticized the BIA's "boiler plate" constitutions and claimed that the by-laws were foreign to even the most educated tribal members. Needless to say, Collier and Bowler once again dismissed Steward as uninformed.¹⁶⁵ But Steward's claims had some merit, and the BIA's initial attempts to promote democratic tribal governments were met with confusion and distrust. Nationwide, only two thirds of eligible tribes voted to accept the IRA. Today, a significant number of tribes—including several Pueblo groups, the Navajo Nation, and the Shoshone and Arapahos from the Wind River Reservation—continue to operate without written constitutions.¹⁶⁶ Having initially rejected the IRA, the Fallon Paiute-Shoshone Tribe did not adopt a Constitution and by-laws until 1964.¹⁶⁷

Commissioner Collier and the BIA suffered setbacks because of a lack of understanding of tribal beliefs and customs. It did not take long to realize that western ideas were often at odds with tribal tradition. A Walker River Paiute, Walter Voorhees, expressed his dismay at the Anglos' separation of church and state since Indian law and customs are rooted in religion. In the old days, chiefs and tribal councils selected leaders based on personal qualities, and there was no voting by the membership. Some believe that tribal elections and vying for positions of leadership fueled the animosity between families, prevalent to this day.¹⁶⁸ The BIA also underestimated the time it would take for self-government to catch on. With reference to the Sioux (and applicable also to Great Basin tribes), the former BIA Director of the Education Willard W. Beatty outlined a fundamental flaw in the federal ideology of this time:¹⁶⁹

Rather than recognizing that social change occurs gradually through slight modifications of existing practice, there seemed to be a determination to transform the Indian as completely as possible at one fell swoop. Rather than accepting the transition from buffalo hunting to cattle herding as a normal and gradual adjustment for the Sioux, there was a concerted attempt to make a farmer or a wage craftsman out of him, despite the fact that his lands were not farm lands and that his part

of the country would not support factories or large cities.

Limitations in funding and the low carrying capacity of the remaining land available to Indians came to haunt Collier and the United States government. In most instances, the sub-marginal nature of lands in the Carson Indian Agency's jurisdiction prevented self-sufficiency. Although the majority of Agency tribes voted for the IRA, the momentum was lost as a result of shrinking appropriations and waning congressional support at the onset of World War II. Consequently, in the post-war years, there was little or no funding to carry out or maintain its provisions. Not surprisingly, Senators McCarran and Arthur B. Watkins (Utah) fought to pass Termination legislation (1953) that nearly collapsed the fledgling tribal governments.¹⁷⁰ But, political change resulted in yet another reversal in Indian policy; this time, in the best interest of Indian people. The Tribal Self-Determination Act, spearheaded by the Kennedy and Johnson administrations, reaffirmed the rights of Native Americans. The Self-Determination Act of 1964 promoted tribal self-government, economic development, and increased tribal control over reservation matters, all the while encouraging a native sense of community.¹⁷¹

Today, the BIA is busily working with tribes to amend and update the original tribal constitutions and by-laws created hastily after passage of the IRA.¹⁷² Indian sovereignty is strong and lasting, and tribes are managing their affairs with less BIA oversight. Tribal councils are tackling complex issues of local and national scope that affect the futures of their people. A final assessment regarding the long-term effects of the IRA on Indian Country is yet to come. According to the scholar Lawrence Kelly, it is nearly impossible to figure out how many Indians benefitted from the IRA.¹⁷³ Most scholars and tribal officials will agree however, that positive changes in Indian policy occurred as a result of the IRA and that the ideology that guides Indian policy today is deeply rooted in the Indian New Deal.

NOTES

¹John Collier, "Indians at Work," in *Survey Graphic*, 23:6 (June 1934), 261.

²Walter V. Woehlke, "Three Nevada Tribes Make 100 Per Cent Credit Record," in *Indians at Work*, 9:4 (December 1941), 15; BIA, "Program of the Carson Indian Agency Jurisdiction, Nevada-California," DOI, Bureau of Indian Affairs, DOI Library, Washington, D.C., 1944, 115. Living mainly from wage labor, Indians from Owens Valley reservations were considered to be in better economic condition than other Carson Indian Agency Tribes.

³Julian H. Steward, "Shoshonean Tribes: Utah, Idaho, Nevada, Eastern California" (report prepared for the Bureau of Indian Affairs, JHS, Indian Reorganization Act).

⁴*Nevada State Journal*, 27 January 1939, p. 3.

⁵Elmer Rusco, *A Fateful Time: The Background and Legislative History of the Indian Reorganization Act* (Reno and Las Vegas: University of Nevada Press, 2000), 74-75.

⁶Kenneth R. Philp, ed., *Indian Self-Rule: First-Hand Accounts of Indian-White Relations from Roosevelt to Reagan* (Salt Lake City: Howe Brothers, 1986), 38.

⁷"A New Deal for the American Indian," *Literary Digest*, 7 April 1934, 21.

⁸Rusco, *A Fateful Time*, 179; Lawrence C. Kelly, "The Indian Reorganization Act: The Dream and the Reality," *The Pacific Historical Review*, 44: 3 (1975), 291-312.

⁹Akim D. Reinhardt, "A Crude Replacement: The Indian New Deal, Indirect Colonialism, and Pine Ridge Reservation," *Journal of Colonialism and Colonial History*, 6:1 (2005), 1-15.

¹⁰Reinhardt, *A Crude Replacement*, 12; Philp, *Indian Self-Rule*, 41.

¹¹Henry W. Kipp, *Indians in Agriculture: An Historical Sketch*, United States Department of Interior, Bureau of Indian Affairs, 1988.

¹²Ralph M. Gelvin to Commissioner of Indian Affairs, 31 March 1944, DOI Library, Washington, D.C.

¹³John Collier, *From Every Zenith: A Memoir and Some Essays on Life and Thought* (Denver: Sage Books, 1963), 301-3.

¹⁴Philp, *Indian Self-Rule*, 104, 148-49.

¹⁵Carson Indian Agency Extension Agent Don C. Foster succeeded Alida Bowler as superintendent in 1939. *Nevada State Journal* (2 November 1939), p. 12. Indian agents were now referred to as superintendents. Pursuant to the IRA, a superintendent's role was more advisory and less autocratic than in earlier days.

¹⁶Carson Indian Agency (1925-52) had jurisdiction over tribal lands in three fourths of Nevada, a small portion of southern Oregon, and the small part of eastern California previously administered by the Walker River Indian Agency.

¹⁷Hilman Tobey, and personal communication with author, 17 August 2007.

¹⁸There is reason to believe that Senator Key Pittman was more sympathetic to Native American needs than his fellow senator, Patrick McCarran. The state legislator (and Northern Paiute) Dewey Sampson wrote that Senator Pittman had requested an appropriation to lease land in Sparks for Indians who had migrated from Wadsworth years earlier. Dewey Sampson, *Personal Reflections of the Shoshone, Paiute, Washoe* (University of Utah Printing Office: Intertribal Council of Nevada, 1974), 24.

¹⁹Jerome E. Edwards, *Pat McCarran: Political Boss of Nevada* (Reno and Las Vegas: University of Nevada Press, 1982), 55.

²⁰Michael J. Ybarra, *Washington Gone Crazy: Senator Pat McCarran and the Great American Communist Hunt* (Hanover: Steerforth Press, 2004), 724-25.

²¹Martha C. Knack and Omer C. Stewart, *As Long as the River Shall Run: An Ethnohistory of the Pyramid Lake Indian Reservation* (Reno and Las Vegas, University of Nevada Press, 1999), 235-37, 248; *Nevada State Journal*, (2 November 1939), p. 12.

²²Elmer R. Rusco, ed., *A Reporter at Large, Dateline: Pyramid Lake, Nevada* (Reno: University of Nevada Press, 2000), 87.

²³Collier, *From Every Zenith*, 372.

²⁴Martha C. Knack, "The Saga of Tim Hooper's Homestead: Non-Reservation Shoshone Indian Land Title in Nevada," *Western Historical Quarterly*, 39 (Summer 2008), 125-51.

²⁵Staci K. Emm and Loretta Singletary, "People of the Land: Sustaining American Indian

Agriculture in Idaho, Nevada, Oregon, and Washington," University of Nevada Cooperative Extension, 2009, 55-56. Note: The federal government considered criteria such as speaking English, education, social habits, appearance, and blood quantum in determining competency to hold fee title.

²⁶Gelvin to Commissioner of Indian Affairs, 31 March 1944.

²⁷"Land Purchases in Nevada," *Indians at Work*, 6:10 (June 1939), 11.

²⁸Although Congress is usually blamed for Collier's funding problems, Lawrence Kelly, "Indian Reorganization Act," 308, attributes the shortage of funds for land purchases to Collier's inadequate early budget requests. Hence, it was the Bureau of Budget, and not Congress, that cut land acquisition funds in subsequent years.

²⁹Kelly, "Indian Reorganization Act," 306.

³⁰John C. Savagian, "The Tribal Reorganization of the Stockbridge-Munsee: Essential Conditions in the Re-Creation of a Native American Community, 1930-1942," *American Nations: Encounters in Indian Country, 1850 to the Present*, Frederick E. Hoxie, Peter C. Mancall, and James H. Merrell, eds. (New York: Routledge, 2001), 291.

³¹Department of Interior, Office of Indian Affairs, Washington, D.C., to Superintendents and Submarginal Land Personnel, 5 September 1934, Record Group 75, Carson Indian Agency, Annual Forestry and Grazing Reports, 1937-49, Acquisitions of Land, National Archives, San Bruno, Calif.

³²"Request for Project Allotment, Soil and Moisture Conservation Funds," 1941, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Soil and Moisture Conservation Records, 1931-53, Fort McDermitt, National Archives, San Bruno.

³³Gelvin to Commissioner of Indian Affairs, 31 March 1944.

³⁴John Dressler, "Recollections of a Washoe Statesman," oral interview, (Reno: University of Nevada Oral History Program, ca. 1982).

³⁵Peter Iverson, *When Indians Became Cowboys: Native People and Cattle Ranching in the American West* (Norman: University of Oklahoma Press, 1994), 130; See Clifford E. Trafzer, "Tuberculosis Death and Survival among Southern California Indians, 1922-44," *Canadian Bulletin of Medical History/BCHM*, 18:1 (2001), 85-107, stating that cattle ranching and earning wages caused depression for Native Americans in southern California as they were no longer able to live like their ancestors.

³⁶Henry W. Kipp, "Indians in Agriculture: An Historical Sketch" USDI, BIA (1 January 1988), 56; Edith Van Allen Murphey, *Indian Uses of Native Plants*, (Glenwood, Illinois: Meyer Books, 1990), Introduction.

³⁷Woehlke, "Three Nevada Tribes," 15.

³⁸Richard B. Millan to Miss Alida C. Bowler (2 November 1935), Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Decimal Subject Files, Records of the Regional Forester Richard B. Millin, 1930-52, National Archives, San Bruno.

³⁹Agnes Scott Train, *Nevada through Rose Colored Glasses: The Fossil and Plant Collecting Percy Trains 1928-42*, (Sparks: Western Printing and Publishing, 1977) 115; Murphey, *Indian Uses of Native Plants*.

⁴⁰Edith V.A. Murphey, *Stock Poisoning Plants: A Stockman's Pocket Book* (Corvallis: O.S.C. Cooperative Association 1947).

⁴¹Percy Train, James R. Henrichs, and W. Andrew Archer, *Medicinal Uses of Plants by Indian Tribes of Nevada* (Lawrence, Mass.: Quarterman Publications, 1982).

⁴²Train, *Nevada through Rose Colored Glasses*, 133.

⁴³*Ibid.*, iii, 130.

⁴⁴Indian Botanical Institute Committee. Application for Funds for Research Work, n.d., Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Decimal Subject Files, 1925-1950, Indian Botanical Institute, National Archives, San Bruno.

⁴⁵Train, *Nevada through Rose Colored Glasses*, 169.

⁴⁶*Ibid.*, 121; Murphey, *Indian Uses of Native Plants*, 37.

⁴⁷BIA, "Program of the Carson Indian Agency Jurisdiction, Nevada-California," (Carson Indian Agency, 1944), 207; Robert D. McCracken and Jeanne Sharp Howerton, *A History of Railroad Valley Nevada* (Tonopah: Central Nevada Historical Society, 1996), 267.

⁴⁸BIA, "Program of the Carson Indian Agency Jurisdiction," 1944, 210; State of Nevada Indian Commission, "2004—Nevada Directory of Native American Resources"; "Land Purchases

in Nevada," *Indians at Work*, 6:10, (June 1939), 12.

⁴⁹BIA, "Program of the Carson Indian Agency Jurisdiction," 1944, 34, 210.

⁵⁰Stephen R. Crum, "The Western Shoshone of Smoky Valley, Nevada, 1900-1940," In *Nevada Readings and Perspectives*, Michael S. Green and Gary E. Elliot, eds. (Reno: Nevada Historical Society, 1997), 20.

⁵¹Lilly Sanchez, personal conversation with author, 7 January 2009.

⁵²BIA, "Program of the Carson Indian Agency Jurisdiction," 1944, 39, 215.

⁵³*Ibid.*, 215, 35.

⁵⁴TC-BIA and U.S. Soil Conservation Service, "The Yerington Project for Smith & Mason Valley Paiutes Located in Lyon County, Nevada" (ca. 1940), DOI Library, Washington, D.C., 26

⁵⁵*Ibid.*, 15; "Land Purchases in Nevada," 11.

⁵⁶TC-BIA, "Yerington Project," 5.

⁵⁷BIA, "Program of the Carson Indian Agency Jurisdiction," 1944, 24.

⁵⁸Michael Hittman, *A Numu History: The Yerington Paiute Tribe*. (Yerington Paiute Tribe, 1984), 46.

⁵⁹Carson Indian Agency Land Acquisition Reports, "Land Acquisition Project #5," Max C. Fleischman College of Agriculture Experimental Station, AC239, Archives, University of Nevada, Reno, 1935.

⁶⁰*Ibid.*

⁶¹"Land Purchases in Nevada," 12; Warren L. d'Azevedo states that a 795-acre parcel on the Carson River, the Washoe Ranch, was purchased for the newly organized tribe: "Washoe," In *Great Basin*, Vol. 11, *Handbook of North American Indians*, Vol. 11, *Great Basin*, William C. Sturtevant, gen. ed., Warren L. d'Azevedo, vol. ed. (Washington: Smithsonian Institution, 1986), 496.

⁶²"The Washoe Tribal Farming Enterprise," in *Indians at Work*, 13:1 (May-June 1945), 26.

⁶³George G. Hussman to Hon. P. A. McCarran, 12 February 1936, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Decimal Subject Files 1925-50, file 909, Indian Botanical Institute, National Archives, San Bruno.

⁶⁴BIA, "Program of the Carson Indian Agency Jurisdiction," 1944, 67; "Fort McDermitt Makes Hay," in *Indians at Work*, 5:5 (January 1938), 24-27. Minor discrepancies in land acreages acquired were noted between BIA reports and "2004—State of Nevada Indian Commission, Nevada Directory of Native American Resources," 38.

⁶⁵"Fort McDermitt Makes Hay," 25.

⁶⁶BIA, "Program of the Carson Indian Agency Jurisdiction," 1944, 72,77; "Request for Project Allotment, Soil and Moisture Conservation Funds," 1941, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Soil and Moisture Conservation Records, 1931-53, Fort McDermitt, National Archives, San Bruno.

⁶⁷Edward C. Johnson, *Walker River Paiutes: A Tribal History* (Salt Lake City: University of Utah Printing Service, 1975), 133, 200; BIA, "Program of the Carson Indian Agency Jurisdiction, 1944, 155.

⁶⁸Clifford E. Trafzer, "Tuberculosis Death and Survival," 100. In 1932, Mission Indians in southern California had a crude death rate from T.B. of 421 / 100,000—dramatically higher than the general United States population rate of 63 / 100,000.

⁶⁹J. H. Stickler, M.D., to Superintendent Don C. Foster, 8 April 1940, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Decimal Subject Files 1925-53, Administrative Records, National Archives, San Bruno.

⁷⁰Alida C. Bowler to Tribes, "Memorandum on Indian Rehabilitation," Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Indian Rehabilitation and Relief, National Archives, San Bruno.

⁷¹Alida C. Bowler to the Commissioner of Indian Affairs, 9 June 1936, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Indian Relief and Rehabilitation, National Archives, San Bruno.

⁷²BIA, "Program of the Carson Indian Agency Jurisdiction," 1944, 108, 114; Sven Liljeblad and Catherine S. Fowler, "Owens Valley Paiute," in *Great Basin*, Vol. 11, *Handbook of North American Indians*, 431.

⁷³BIA, "Rehabilitation Program, F.Y. 1942, Summary," Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Indian Relief and Rehabilitation, National Archives, San Bruno.

⁷⁴Washoe Tribal Council to Superintendent Bowler, 3 March 1938, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Indian Relief and Rehabilitation, National Archives,

San Bruno, Calif.; *Desert Magazine* (November 1941), 31.

⁷⁵Superintendent Bowler to Mr. Andrew and Mr. Barrett, 12 June 1939, National Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Indian Relief and Rehabilitation, Box 18B, National Archives, San Bruno.

⁷⁶Inter-Tribal Council of Nevada, *Personal Reflections of the Shoshone, Paiute, Washoe* (Salt Lake: University of Utah Printing Services, 1974), 21.

⁷⁷BIA, "Program of the Carson Indian Agency Jurisdiction," 40, 96, 211.

⁷⁸E. S. Tisdale and C. H. Atkins, "The Sanitary Privy and Its Relation to Public Health," *American Journal of Public Health* 33:11 (November 1943), 1320

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⁸⁰Statewide Community Sanitation Project, "Application for Privy Installation for Carson Indian Colony and Dresslerville Colony," 29 September 1937, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Decimal File 307, Indian Relief and Rehabilitation, Sanitation Projects, National Archives, San Bruno.

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⁸³BIA, "Rehabilitation Program, F.Y. 1942, Summary."

⁸⁴BIA, "Program of the Carson Indian Agency Jurisdiction," 137, 165.

⁸⁵Alida Bowler to Commissioner Collier, 31 January 1939, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Administrative Records 1934-43, Washington Correspondence, Odds and Ends, National Archives, San Bruno.

⁸⁶Renee Corona Kolvet and Victoria Ford, *The Civilian Conservation Corps in Nevada: From Boys to Men* (Reno: University of Nevada Press, 2006), 125.

⁸⁷BIA, "Minutes, Sixth Inter-Tribal Conference of Council Representatives, Carson Jurisdiction on Council Procedures and Organization Activities, Steward, Nevada, November 6-8, 1941," Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, Records of the Extension Division, Annual Statistical Extension Report, 1941-1945, Box 116, National Archives, San Bruno.

⁸⁸*Ibid.*, 62.

⁸⁹Brian Hosmer, "Working and Belonging on Wind River," Paper presented at the American Society for Ethnohistory Annual Meeting, Session 27, 9 November 2007, Tulsa, Okla.; BIA, "Final Report of the Indian Emergency Conservation Work and Civilian Conservation Corps—Indian Division Program, 1933-1942," DOI Library, Washington, D.C.

⁹⁰BIA, "Final Report of the Indian Emergency Conservation Work and Civilian Conservation Corps."

⁹¹*Ibid.*

⁹²Kolvet and Ford, *Civilian Conservation Corps in Nevada*, 3.

⁹³BIA, "Final Report of Indian Emergency Conservation Work and Civilian Conservation Corps," 21.

⁹⁴Frank Parcher to Mr. D. E. Murphy, Director CCC-ID, 13 October 1939, Record Group 75, Carson Indian Agency, CCC-ID, File 510, National Archives, San Bruno.

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⁹⁶Mary Kennington (BIA Home Extension Agent) to Mr. H. S. Barrett, Project Manager, Carson Indian Agency, 8 July 1940, Record Group 75, Carson Indian Agency, Indian Relief and Rehabilitation, General Correspondence, Box 18, 310, National Archives, San Bruno.

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⁹⁸"Pyramid Channel Survey Is Asked, *Reno Evening Gazette* (22 February 1938), 2.

⁹⁹Donald L. Parman, "The Indian and the Civilian Conservation Corps," *The Pacific Historical Review*, 40:1 (February 1971), 41.

¹⁰⁰USDOI, "Memorandum for the Press," 31 March 1938, Record Group 75, Bureau of Indian Affairs, Carson Indian Agency, CCC-ID Decimal Subject Files, 1934-42, File 1005.2, Celebrations, National Archives, San Bruno.

¹⁰¹Parman, "Indian and Civilian Conservation Corps," 48-49.

¹⁰²"Traveling Teepees: or Take the Camp Along When You Move," *Happy Days* (3 December 1938).

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¹³²Collier, *From Every Zenith*, 193-4.

¹³³Stephen J. Crum, *The Road on Which We Came: A History of the Western Shoshone* (Salt Lake City: University of Utah Press 1994), 116; TheWa-Pai-Shone faded from existence in the mid-1940s with a new BIA administration.

¹³⁴BIA, "Program of the Carson Indian Agency Jurisdiction," 50, 125, 128.

¹³⁵Golden Gate International Exposition, *Official Guide Book*, 1939; "Nevada Indians Play Prominent Part in World's Fair in San Francisco; Exhibit Is Planned Here," *Nevada State Journal* (22 January 1939), p. 1; Edith V.A. Murphey, "Travelogue" *Ukiah Republican Press*, n.d.

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¹⁴⁰David W. Daily, *Battle for the BIA: G.E.E. Lindquist and the Missionary Crusade against John Collier* (Tucson: University of Arizona Press), 2004.

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¹⁴³Lily Sanchez, personal communication with author, 7 January 2009.

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¹⁴⁹Corbett Mack, *The Life of a Northern Paiute, as Told by Michael Hittman*, (Lincoln: University of Nebraska Press, 1996), 203.

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¹⁶⁰Underhill, *Northern Paiute Indians*, 67.

¹⁶¹Philp, *Indian Self-Rule*, 18; Kelly, *Indian Reorganization Act*, 299.

¹⁶²Crum, *Road on Which We Came*, 117.

¹⁶³BIA, "Program of the Carson Indian Agency Jurisdiction, 4.

¹⁶⁴James W. Hulse, *Forty Years in the Wilderness* (Reno: University of Nevada Press, 1986), 95; Inter-Tribal Council, *Personal Reflections of the Shoshone, Paiute, Washoe*, 24-25.

¹⁶⁵D'Azevedo, "Washoe," 496; Rusco, "Julian Steward," 94.

¹⁶⁶Rusco, *Fateful Time*, 301.

¹⁶⁷State of Nevada, Indian Commission, "Nevada Directory of Native American Resources," 2004, 37.

¹⁶⁸Inter-Tribal Council, *Personal Reflections of the Shoshone, Paiute, Washoe*, 12.

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¹⁷⁰Richard O Clemmer and Omer C. Stewart, "Treaties, Reservations, and Claims," in *Great Basin*, Vol. 11, *Handbook of North American Indians*, 549.

¹⁷¹*Ibid.*, 553; Stephen Pevar, *The Rights of Indians and Tribes* (New York: Oxford University Press, 2012), 8-9.

¹⁷²Fred Drye (Western Nevada Agency), personal communication with author, 31 March 2009. The Carson Indian Agency jurisdiction was reorganized in 1953. Today, the Owens Valley and eastern California tribes are within the jurisdiction of the Central California Agency; Las Vegas and Moapa Paiute tribes are part of the Southern Paiute Field Station (St. George, Utah); and the remaining tribes are administered by the Western Nevada or Eastern Nevada agency.

¹⁷³Rusco, *Fateful Time*, xii; Kelly, *Indian Reorganization Act*, 300.

Nevada and the New Deal's 1936 Campaign from Washington

JEFF BURBANK

When Nevada voters sided with Franklin Roosevelt during his successful campaign for president in 1932, they ushered in an era that would propel the Democratic Party—defeated in presidential elections in the state and nation in 1924 and 1928—to control of Nevada's Congressional delegation for the remainder of the decade. In the 1932 election, the state replaced the Republican United States senator, Tasker Oddie, with a Democrat, Pat McCarran, and the Democrats not only swept all the statewide offices, but gained control of both the state Senate and Assembly as well. As the 1936 presidential election rolled around, with Roosevelt up for re-election, a discouraged Republican Party struggled to compete against boasts by Democrats that Nevada had become a "one-party state."¹

Nevada was to give Roosevelt nearly the same landslide advantage over the Republican Alf Landon in 1936 that the country as a whole gave him. Roosevelt won the state by a margin of more than two to one—72.8 percent to 27.2 percent—compared to 60.8 percent to 36.5 percent nationwide. Like much of the country still in the throes of the Great Depression, Nevada could

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Button from Franklin D. Roosevelt's 1932 presidential campaign. (*Collection of David J. and Janice L. Frent*)

ill afford to change horses in midstream. In fact, of all the then forty-eight states at the time, Nevada arguably had the most to lose from a Roosevelt loss at the polls. The New Deal smiled upon the state like no other. With only 91,058 people, the least populous state by far according to the 1930 census, with Wyoming next lowest at 225,565 residents,² Nevada also received more federal money and loans on a per-capita basis from the New Deal than any other state: \$1,130 per person (a total of \$102.8 million) from 1933 to 1939. The state ranked first in relief funds per capita in the form of loans, civil works, civilian youth work and public road projects.³ The New Deal's relief programs in Nevada, as related by the historian Walter Nugent, resulted "in 50 bridges, 142 miles of new roads and improvements on another 900 miles from the WPA, as well as 133 public buildings (hospitals, high schools, courthouses), water and sewage works, a municipal golf course for Reno, and much else."⁴ As Leonard Arrington noted, the fact that Nevada and other western states received higher amounts of New Deal aid was due in part to "the extent of suffering, intensified by the inability of most western states to raise much revenue of their own."⁵ Still, Nevada benefited from a very high portion of the New Deal's largess even though the state's per-capita income, at \$577 a year, was the fifth highest in the nation.⁶

During the so-called "First New Deal," generally agreed by historians as spanning 1933 to the spring of 1935, Roosevelt's dedication to government programs such as the Reconstruction Finance Corporation, Federal Emergency Relief Administration, Civil Works Administration, Works Progress Administration, and the Civilian Conservation Corps, effectively turned much of the public's attention toward economic recovery from the early years of the Depression, even though his programs had been only partially successful by 1936.⁷ Other New Deal programs, including ones that furnished relief in Nevada, included the Rural Electrification Administration, which provided rural areas with electricity; the Resettlement Administration, which assigned city residents to work on farms; and the housing-related agencies such as the Home Owners Loan Corporation and the Federal Housing Authority.⁸

One historian has described Roosevelt's 1936 campaign as being less about issues than about his personality and emotional appeal, a referendum on him and the popularity of his relief programs: "Vast audiences gathered to pay homage and express their love. Never before, at least since Washington, had a candidate so captured the affection of the American people."⁹ But in fact Roosevelt had more to rely on than his bully pulpit in the White House and on the campaign trail. One unique aspect of the New Deal in 1936 was that perhaps never before had an American president used federal bureaucrats to publicize his programs so extensively in the mass media. News about Roosevelt's federal relief programs was well represented in newspapers big and small in Nevada and across the country, particularly in the months leading up to the 1936 election, thanks to the New Deal's Information Division in Washington, D.C.¹⁰ Starting in 1935 under the administration's Resettlement Administration, the Information Division employed mostly former journalists in regional offices who stayed in close contact with local news editors, even fashioning news stories for them, detailing the progress of New Deal programs in their towns and states. Even sticking simply to the facts—much of which amounted to good news anyway—of what the programs were to do and what they did, the division essentially served as an official public-relations department for the New Deal and resulted in much invaluable free campaign coverage in 1936.

By that election year, Roosevelt enjoyed a clear advantage thanks to a healthier economy. The United States economy had improved significantly from 1933, with six million new jobs created, a doubling of prices on the stock market, and an increase in farm income from \$2 billion to \$7 billion.¹¹ Gearing up for his re-election, Roosevelt asked for and received politically useful news from his federal agencies, which reported that since 1933, the United States government had plowed \$5 billion into work and relief efforts to the states, plus another \$4 billion for public projects such as buildings and roads.¹² Events were rapidly going Roosevelt's way. For the Republicans that year, the elephant in the room was not Landon, but the surging economy. Although Landon's insistence that unemployment remained high, and that



Roosevelt at his desk during his first fireside chat on March 12, 1933. Photo by the U. S. government. (*Franklin D. Roosevelt Library and Museum*)

the Depression was not over, was in fact accurate, the number of the country's unemployed nonetheless fell from 11 million at the start of 1936 to only 8.3 million in November, with major corporations such as General Motors reporting their strongest results since the crash year of 1929.¹³

But Roosevelt's critics still claimed that his New Deal amounted to national political patronage. The positive political implications of New Deal programs, such as the Works Progress Administration, which bestowed federal grants to the states for local improvement projects, were not lost on his opponents in Congress. James T. Patterson, author of *The New Deal and the States*, pointed out that Roosevelt's critics viewed "WPA grants as pre-election handouts ... little more than a sophisticated and centralized vote buying machine" that created Democratic political bosses and "statewide Tammany Halls."¹⁴ The historian Frank H. Knight insisted that Roosevelt's policies were based purely on expediency: "That is to say New Deal policies were mostly political, for they ignored or defied economic principles ... The use of major government policies with political power as the principal motive was undertaken on a scale never before seen in American political life."¹⁵

This essay will review some of the numerous articles on the local relief programs provided by New Deal programs in Nevada that were published in four of the state's newspapers leading up to the 1936 election. While it is difficult to assess the influence of these mostly pro-New Deal articles—and the many generally positive editorials they spawned—on the electorate, the Roosevelt administration's Information Division kept localized news stories on New Deal programs on the front and inside pages of many of the nation's newspapers that election year. One of the Information Division's regional offices for southern states reported compiling clippings of more than five thousand news stories it generated from March to December 1936 alone.¹⁶

THE NEW DEAL REVITALIZES MAJOR NEVADA INDUSTRIES BY 1936

Little more than a year after Roosevelt entered the White House in March 1933, Nevada became one of the western states suffering through a severe drought on top of the Depression. Farmers faced an even bigger struggle to pay the mortgages and taxes on their farms, as well as to maintain the bank credit they used to feed their livestock, crops, and families. From 1934 to 1936, the western states became the biggest recipients of loans and other relief from the Roosevelt administration.¹⁷ But Nevada had received economic boosts from federal government spending well before the New Deal. The Federal Aid Road Act of 1916 led to federal money to construct a series of gravel highways in the state, mainly during the 1920s, at a cost of \$9.6 million.¹⁸ In 1929, Congress agreed to spend \$10.6 million (total spending would amount to \$125 million) on the Boulder Canyon dam project, twenty-five miles from Las

Vegas, and on a 22.6-mile rail line reaching from the dam site to within seven miles of Las Vegas.¹⁹ In the 1930s, federal highway spending reached \$29.9 million.²⁰ At that time, the early 1930s, Nevada remained a mining and farming state, and casino gambling, which the legislature legalized in 1931, was not yet a significant business, producing only \$69,000 in revenue statewide in 1933.²¹

The Depression, which started nationally in 1929, was at first slow to take full effect in Nevada. But it had truly hit the state hard by 1932, when George Wingfield's banking chain, based in northern Nevada—which had lent money to many of Nevada's cattle ranchers—closed down, despite a \$4.8 million loan from the Herbert Hoover administration.²² The Depression began affecting the state's important livestock and farming industries in 1930, and by 1932, their gross income had dropped to just \$6.4 million from \$22.1 million in 1928. Many livestock farmers filed for bankruptcy and lost their ranches.²³ Meanwhile, Nevada's top industry, mining (mainly copper and silver), had also suffered a drastic decline by 1932, when production fell to only a seventh of what it had been in 1929.²⁴

After Roosevelt defeated Hoover in November 1932, both mining and agriculture gained a measure of relief from federal government initiatives supported by the president and his plan for recovery. The New Deal created agencies that stimulated economic activity in America's rural areas, and Nevada in the 1930s, very much a rural state, had benefited significantly by election year 1936. The Agricultural Adjustment Administration, the Rural Rehabilitation Administration, and the Soil Conservation Service sent federal aid to Nevada. The 1934 Taylor Grazing Act helped conserve livestock grazing on public lands during the severe drought conditions then being suffered in the western states. The federal push seemed to work. Nevada's farming economy grew to \$12.4 million by 1935, about 50 percent more than in 1932.²⁵

Mining in Nevada vastly improved as well during Roosevelt's first term and into the late 1930s. After much prodding from Nevada's senior Democratic senator, Key Pittman, Roosevelt signed the Silver Purchase Act of 1934. Consequently, the federal government bought Nevada silver at 64.5 cents an ounce, about 21 cents higher than the prevailing price, a move that attracted millions in mining capital back to the state. The state's production of silver soared by 166 percent from 1933 to 1934. The New Deal also aided Nevada's goal of stabilizing and then increasing the price of copper through a new instrument, the National Industrial Recovery Act (NIRA), which by 1934 created a code that guaranteed work weeks and pay in order to get miners back to work producing the metal.²⁶ The value of copper produced in the Ely area rose from \$2 million in 1932 to \$7.2 million in 1935.²⁷ In fact, the historian Russell R. Elliott wrote that, by 1939, "Nevada's depression was over," as mineral production had increased to \$31 million.²⁸ The NIRA and subsequent New Deal legislation were to grant Nevada workers the right to organize and join unions, and some of the state's miners became affiliated with the International Union of Mine, Mill and Smelter Workers.²⁹

Outside of mining and agriculture, other Nevadans out of work during the Depression in 1933 received swift relief from the New Deal's Civilian Works Administration, which, under state director Cecil Creel, granted some of the state's jobless some temporary-pay work on public improvement projects. For a time, Creel also ran another significant New Deal federal program in Nevada, the Works Progress Administration, which, starting in 1935, helped employ out-of-work musicians, writers, artists, and others not previously included in relief programs. The WPA soon became Nevada's largest employer.³⁰

Nevada's status as the number-one beneficiary of federal funds was known throughout the country during the 1936 campaign, and roused jealousy in some quarters. That June, the Democratic *Las Vegas Evening Review-Journal* defended the outlays, complaining in an editorial that Nevada had been "kicked around in the east like a football in an effort to discredit the Roosevelt administration" by "New York newspapers" over the state's high share of New Deal funds. The Review-Journal cited an unnamed paper as reporting that "in 1935 the federal government spent \$1,086 on each relief family in Nevada." That view, the Review-Journal pointed out, inspired a response on the floor of the United States Senate by Pittman, who insisted that the actual figure was \$539.18 per family. The \$1,086 figure had been reached by adding together the amount spent on other New Deal projects in the state, including drought relief, and the costs of public works, highway, and Civilian Conservation Corps projects.³¹ "No consideration was given to the fact, Senator Pittman asserts, that Nevada is almost solely dependent on mining and stock raising and that both industries have been at their lowest ebb in history during the past three or four years," the newspaper noted. "Added to this, Nevada, together with several other western states, has for several years, reaching its peak in 1934, experienced the most disastrous drought in the history of the state."³²

Roosevelt generally enjoyed acclaim throughout the 1936 campaign on the editorial pages of Nevada's newspapers, with two notable exceptions. One was the pro-Landon *Reno Evening Gazette*, the state's largest daily at the time. Another was *The Ely Record*, a weekly edited by the Republican (and future Nevada governor) Charles H. Russell. His paper nonetheless could not affect the outcome among voters in rural White Pine County, many of whom had benefited from New Deal programs aiding mining and farming, and who turned out solidly for Roosevelt.

ELY, WHITE PINE COUNTY

If *The Ely Record* is any indication, even before the official creation of the Information Division's regional divisions in 1935, the Roosevelt White House effectively communicated with local newspapers about the New Deal's relief efforts in White Pine County. In 1934, in the northeastern town of Ely, New Deal programs infused distressed livestock farmers—some unable to

meet their mortgages and many hurt by the prolonged drought—and other local residents, if not with riches, with more confidence in the future. The Roosevelt administration made sure they knew that Washington was making its presence felt in the community. In August 1934, for instance, as the lack of rain continued to ruin grazing lands, the New Deal's Agricultural Adjustment Administration (AAA) announced it would continue to purchase heads of Nevada cattle as part of its drought relief program. Frank Upman, Jr., the Federal Emergency Relief Administration (FERA) administrator in Nevada, announced that he had appointed a resident from Ruth, Nevada, to handle FERA duties in White Pine County and would send a FERA representative to White Pine to look into taking over and converting a local packing plant into a cannery that would can, as the *Record* reported, "livestock bought under the present drought relief program."³³

At the same time, White Pine livestock farmers struggled to meet the rising costs of moving cattle and lambs by rail to the marketplace. The rates charged by the railroads had increased from \$2.50 per car before World War I to \$11.50 in 1934. They appealed for help from Washington. At the behest of the Elko County Farm Bureau, the state Public Services Commission filed a complaint with the United States Interstate Commerce Commission, asking that it force railroads to reduce shipping rates by 25 percent.³⁴ Meanwhile, good news from Washington came to 287 of Nevada's corn and hog farmers who had applied to be part of the New Deal's production control programs. The farmers received \$65,252 in checks, and even though, as the *Ely Record* reported, "Nevada is not a corn state, 457 acres [of corn] was signed up" for relief by the New Deal program.³⁵ Weeks later, just as the GOP's nominee for United States Senator, George Malone, launched his 1934 campaign against the Democratic incumbent Key Pittman, the federal government announced that it would offer \$20 to \$50 per head of cattle in Nevada to control the spread of Bang's disease, then considered a leading problem affecting the state's livestock.³⁶ In a sign of the times, even for a Republican newspaper, above the *Record's* article about that announcement, the NRA Eagle—logo of the New Deal's National Recovery Administration program—appeared beside the paper's masthead.³⁷

Later that month, the United States government started buying what would amount to thousands of distressed sheep (mainly, it was forecast, from farmers in White Pine, Churchill, Elko, Humboldt, Lander, Mineral, Esmeralda, and Washoe counties) for \$2.50 a head, with half of the money going directly to the farmers and half to the holders of liens on their farms.³⁸ By mid-September 1934, the AAA had bought 14,849 head of cattle from Nevada farmers, who received \$232,730 in drought-relief purchase checks.³⁹ A week later, Frank Ingram, Nevada's NRA chief and coordinator of the state's committee under the National Housing Act, came to Ely and used a "visomatic" slide machine and recorded soundtrack to show how homes and businesses could be

improved using government loan money. The loans would range from \$100 to \$2,000 and be awarded "to persons on character and income references by the local banks."⁴⁰ Down in southern Nevada, three new Civilian Conservation Corps (CCC) camps were formed, employing 650 young men with the Forest Service, to work on flood control projects.⁴¹

The federal government's major contribution to Nevada during the first New Deal was evident by fall 1934. The state's treasurer reported that Nevada's total income from its seventeen counties, from mid 1933 to mid 1934, amounted to \$4.9 million, \$1.5 million of which—or more than one quarter—came from federal funds to build state highways.⁴² Voters across the nation decided that if recovery had not been achieved, at least Roosevelt had put it on the right track: His Democrats came out way ahead in the midterm elections. In Nevada, a majority of voters also rewarded the president's party during the 1934 contest. Pittman, a close Roosevelt ally, was swept back into office, and Democrats won all of the statewide offices as well as control of the Assembly and Senate.

By 1936, coverage in *The Ely Record*, still opposed to Roosevelt in its editorials, revealed unhappiness among farmers over the Taylor Grazing Act, specifically its provision giving the federal government the right to set boundaries and districts for public grazing lands as well as the fees farmers had to pay to graze their livestock on the public land. In June, on the day Landon was nominated, Nevada's Democratic congressman, James Scrugham, traveled to Elko, where a representative of the farmers told him that "90 percent" of livestock ranchers were upset over the act, complaining that grazing fees were too high.⁴³ At the same time, news arrived from Washington of a \$15,000 grant, thanks to Senator Pittman, for an "emergency WPA project in the control of Mormon crickets" that was employing 260 Nevadans.⁴⁴ But days later, a group of sixty-two livestock farmers filed suit in Reno, challenging the United States government's right to set grazing fees for sheep and cattle on public land. The stockmen found support from Nevada's other Democratic senator, Pat McCarran, who repeated his opposition to the Roosevelt administration's setting of grazing fees before the drought-ravaged rangelands had been developed enough to provide food. But McCarran, already known as a critic of the New Deal, added that he had accepted an invitation from his national party to campaign for the president in Nevada.⁴⁵ The Ely paper praised McCarran's stance, describing as "an injustice" the New Deal's policy "to assess the grazing fees on the already overburdened industry."⁴⁶

Still, with Landon on the campaign trail in June of 1936, the Roosevelt administration was again able to take advantage of its office by doing things, including in Nevada. It announced that Nevada's World War I veterans would receive \$2 million in bonus payments on or after June 15.⁴⁷ Elko farmers received a response about their lawsuit from the federal government in mid July, when the director of grazing, F. R. Carpenter, of the Interior Department, agreed to come to Ely in August, as part of a tour of Wyoming, Montana, and

Idaho, to discuss plans to create nine to ten new grazing districts, including three in northern Nevada.⁴⁸ More than five hundred ranchers attended the meeting with a reassuring New Deal representative Carpenter in Ely on August 20. Carpenter explained that the government did not intend to impose the districts on ranchers and that half of the grazing fees would be returned to the states, with 25 percent of the federal government's share going to improving the grazing areas. With northern Nevada livestock farmers divided on what boundaries to set in their counties, Carpenter scheduled another meeting for September and said that grazing lands would be improved by using the CCC and other federal agencies.⁴⁹ McCarran, who was at the meeting, warned ranchers to make sure they knew what they were voting for. After deliberating, they approved tentative lines.⁵⁰ Farmers representing eleven counties agreed to final boundaries, selecting three more grazing districts for a total of five in early September.⁵¹

Ely continued to receive fresh attention from the New Deal, and its programs were felt deep inside the community. On August 27, the United States Bureau of Air Commerce and the WPA approved a \$34,000 grant to install lights and make other improvements at the Ely airport.⁵² A Labor Day celebration in Ely included a softball game with a local team against another representing the CCC of Indian Springs, Nevada, and there were activities planned for kids under the "Children's WPA Program."⁵³ With the 1936 election less than two months away, local readers were informed that Nevada's take from retail sales had reached \$42.7 million in 1935, an increase of 49 percent from 1933, compared with a decline of 43 percent in sales from 1929 to 1933.⁵⁴ That significant piece of news was met by a quarter-page ad paid for by the Nevada state GOP, quoting the "leading New Deal paper of Nevada," the *Nevada State Journal* in Reno, as arguing against new "federal laws, armed with teeth in the form of tyrannical regulations of the SEC [that] have effectively banned all financing of new mining ventures." "This means," the GOP said, "we will have no more Goldfields, Tonopahs, Austins or other famous mining towns."⁵⁵

But, in October, once again, events favored the New Deal and overshadowed mere campaign rhetoric. Nevada's ranchers took notice of a University of Nevada report that found that farm income in Nevada in 1935 had risen to \$10.6 million, almost 40 percent greater than in 1934 and the best since 1930, with the biggest gains from cattle and calves, taking in \$4.6 million compared to \$2.6 million a year earlier.⁵⁶ *The Ely Record* reported that "Nevada's prosperity was attested" by a state treasurer's report showing a state balance of \$1.6 million by mid 1936, up from \$1.3 million in mid 1935.⁵⁷ Still trying to reach voters, the Republicans ran an ad complaining that the New Deal's tax bill unfairly penalized mining and would discourage mining investors, stating "Save Nevada Mines! Vote Republican!"⁵⁸ Another GOP ad decried "Rooseveltism," showing a photo of workmen who, it stated, had been "herded" into registering for a New Deal program. The GOP pledged to create

"a non-partisan administration of all relief" allowing citizens "to retain their self-respect and vote according to their conscience."⁵⁹ GOP rallies were held a week before the election, days after the party oversaw a meeting in Ely attended by White Pine County party committee members such as Russell, the *Record's* editor.⁶⁰ In the end, White Pine voters went overwhelmingly for the New Deal: Roosevelt got 2,808 votes to only 879 for Landon. The editor and New Deal critic Russell represented the irony of becoming the only Republican elected in the county. An incumbent, Russell retained his seat in the state Assembly, garnering 2,378 votes in a crowded contest involving seven candidates.⁶¹

WINNEMUCCA, HUMBOLDT COUNTY

West of Ely, in Humboldt County, Winnemucca in the 1930s was a center of livestock farming. The daily paper there, *The Humboldt Star*, regularly published the going prices for steers, sheep, and lambs in the upper right corner of the front page. The paper, editorially pro-Roosevelt, dutifully published the good news emanating from, and provided by, the New Deal. On July 20, 1936, the *Star's* front page carried stories detailing six new Public Works Administration projects in Nevada, a book drive by Humboldt County's Works Progress Administration recreational program, and an account of a softball game won by a local Civilian Conservation Corps team.⁶² As the election neared, in October, the *Star* ran a story headlined "Security of Bank Deposits Now at All-Time High," observing that "during the past year not a single National Bank has failed." The article was placed beside a photo showing Landon with the farmer's-rights figures John and Dan Wallace, who had endorsed Landon.⁶³ A late October rally for the Democrats in Winnemucca, hosted by the Democratic incumbent, Congressman James Scrugham, was announced in a story that ran next to an article about an agreement by Humboldt County to accept a 55 percent subsidy from the WPA to pay for a fish hatchery to be completed by 1938.⁶⁴

The following day, Scrugham predicted that Roosevelt would win Nevada "by at least three to one" and "will win in the nation, too." The congressman also noted that Democrats had a "better than three to one" edge in party registration statewide. In pleading his own candidacy in the northern part of the state, Scrugham announced that Nevada had received \$16 million in 1935 from the United States government for road, CCC, mining and other projects. Meanwhile, Pittman and McCarran were campaigning for Roosevelt outside of Nevada. Pittman spoke in San Francisco. McCarran, while in Seattle, had been blocked by Washington State's Board of Regents from addressing students on Roosevelt's behalf at the state university there. The board stated that it barred McCarran because recently "there has been too much politics" and "heated controversies" on the campus.⁶⁵

Still more positive news, at least indicating recovery in Nevada, came to Winnemucca as the 1936 national election drew closer. In August, the United

Press reported out of Carson City that as of June 30, 1936, deposits held by Nevada in banks both in the state and in California had increased by \$860,000 in one year to more than \$1.4 million. The banks included fourteen open banks and nine banks that had failed, such as those in the Wingfield chain that had gone under years earlier.⁶⁶ Overshadowing the news that day was the arrival in Winnemucca of former President Herbert Hoover. Hoover said he was in town with a crew of inspectors to examine a gold mine in Jungo, but told the *Star* that he was optimistic that Landon would win. Days beforehand, Hoover had gone fishing and visited a copper mine in Elko County. Although Hoover appeared to have played a non-active role for Landon—he made no campaign speeches in his behalf—the visit could be considered a campaign trip, if at least to give a nod to the state's northern mining industry. The *Star* claimed that Hoover actually had "taken an active lead ... in organizing the republican presidential campaign." The day before Hoover got there, the Democrats sent their incumbent Congressman Scrugham to visit the same gold mine at Jungo.⁶⁷

The New Deal landed another opportune news clipping from Winnemucca on October 26, eight days before the election, with a lead story celebrating the city's receipt of a grant of \$54,375 from the Public Works Administration for rebuilding a municipal light and power plant. Beside the story was a picture of a smiling Franklin Roosevelt before a large crowd in Hartford, Connecticut. To the left of the photo was a story about a review by the United States Supreme Court of the Wagner Act—labor legislation favored by Roosevelt—and a story on a Democratic campaign rally held by Scrugham, in which he defended the New Deal programs AAA, the RFC, and the CCC, as well as the administration's agriculture policy.⁶⁸ "To my mind the present administration acted in behalf of agriculture at a time when the all-important industry in American life was on the brink of ruin; had he failed to act, I firmly believe the doom of agriculture would have meant the doom of America." His comments were reported in the *Star*, which also pointed out, favorably for the congressman, that Scrugham was "a member of the house appropriations committee in direct charge of monies allotted the mining industry, the U.S. geological survey, the national forests and other departments."⁶⁹

The Nevada Republican Party organized a rally in Winnemucca two days later, with plans for further rallies in the northern section of the state, from Ely to Reno, to wrap up the 1936 campaign.⁷⁰ But the GOP rally had less of a draw, at least when compared to a United States congressman offered by the Democrats. An advertisement in the *Star* listed the Republican Party's national representative for Nevada, Lester D. Summerfield, as the main speaker at the local rally, with the state party chairman Clyde Souter and congressional candidate Ed C. Peterson also to speak.⁷¹

Republican hopes for a Landon victory were heightened the Friday before the Tuesday election, when the *Star's* top story, headlined "Landon Wins Nevada in Digest Poll," had Landon ahead of Roosevelt by 1,003 to 958 in the

state, and leading 60 percent to 40 percent nationwide, based on a survey by the *Literary Digest*, then a well-known national magazine.⁷² On Sunday, both state and local GOP leaders attempted to capitalize on the *Digest* poll's results in advertisements. "Landon Wins!" trumpeted the state GOP's ad. "Absolute Accuracy of Literary Digest Poll Definitely Predicts New Deal Defeat," it stated, along with claims that the magazine's poll had been 99.6 percent correct in predicting the result of the 1932 national election, and that Landon would beat Roosevelt by 370 to 161 in the Electoral College. Next to it, an ad paid by the Humboldt County GOP urged voters to "Make it Unanimous!" by voting a straight Republican ticket, including for the incumbent state senator, Phil Tobin.⁷³

Just a day before the election, the *Star* led with bad news about the federal government's grant for the Winnemucca power plant. A federal judge in Washington, D.C., had agreed to issue a ten-day temporary injunction, preventing the secretary of the interior, Harold Ickes, from completing the grant and loan to the city, which was to total \$120,000. The Western States utility company, which owned the plant and was fighting to keep the city from taking it over, had sought the injunction. "Ickes Enjoined From Completing Grant, Loan," blared the headline.⁷⁴

But that bit of pre-election news seemed to matter little to Humboldt County voters. The Roosevelt-Garner ticket defeated Landon-Knox by 1,210 votes to 390, better than four to one. Tobin, credited with introducing the casino-gaming legalization bill in Carson City that became law in 1931, was defeated in a lopsided win by his Democratic opponent for state senator, Ernest Bell, who got 1,005 votes to Tobin's 627.⁷⁵ In an editorial, the *Star* was forward looking, if unsure, about the future. The election result "means that the people have placed the stamp of approval on the New Deal" and that "America shoves off on a new course, a new 'mysterious ocean' to be explored and chartered ... Ahead lies a reshaping of our social and economic order to provide, if possible, greater security, greater sharing of the productivity of our soil and other resources for all of the people." ⁷⁶

RENO, WASHOE COUNTY

While the *Reno Evening Gazette* opposed Roosevelt's policies on its editorial pages, Washoe County residents still received an almost daily smorgasbord of positive news and opinion about the New Deal in 1936, thanks to the smaller *Nevada State Journal*. As it had been in 1932, the *Nevada State Journal* was fervently pro-Roosevelt in 1936, consistently praising his national programs in editorials and the promising news from Washington about the New Deal's efforts in Nevada. For example, as the 1936 campaign season reared its head in June, the paper highlighted the Hayden-Cartwright highway legislation,

to be signed by Roosevelt, because of the "liberal provision it made for direct federal expenditures of general public benefit in the forests, national parks, over public lands, Indian lands and other divisions."⁷⁷ This was written in response to a *Reno Evening Gazette* article, rewritten by the newspaper from what it termed "press dispatches," reporting that "President Roosevelt will sign [a bill for] \$486,000,000," giving "nearly \$3,000,000 annually for Nevada Highway work."⁷⁸

The *Nevada State Journal* also crowed that farmers "will have to remember the year 1936 with considerable satisfaction," citing figures reported by the federal Bureau of Agriculture Economies that revealed that "farmers' cash income in the first four months of this year reached a new six-year peak."⁷⁹ On June 4, a front-page story reported that forty-three hundred Nevadans were working on public projects and roads and with private companies, thanks to the WPA.⁸⁰ A June 5 story included three long paragraphs of direct quotes from the CCC's national director, Robert Fechner, who stated that the CCC had men from forty-five of its work camps making improvements to livestock grazing lands, including within Nevada.⁸¹ The paper's editors lauded the grazing-land effort, stating that "(p)rojects of the CCC camps are of direct benefit to stockmen, and are approved by the local boards, showing a complete cooperative effort in the program."⁸² A day later, a United Press story out of Washington, competing on the front page with news about a "Stop Landon" campaign at the GOP national convention, revealed that World War I veterans' bonus payments had "started on their way from the treasury department tonight to the boys who fought 'over there,' and are collecting 'over here.'" An editorial headlined "Good Progress Made by Federal Activity," quoted news reports that "more than five million head of [livestock] are under supervision in the U.S. at this time," including "approximately 18,000 in Nevada."⁸³ Another cited good economic news from the latest issue of *Business Week* magazine, which predicted that the mining and manufacturing sectors of the national economy in the first six months of 1936 "will average about 15 percent above the same months in 1935 and will reach the best level in the past six years."⁸⁴

Months later, in an editorial titled "Nevada Appreciates Service Rendered," the paper cited most of the "alphabet soup" New Deal programs for providing an economic recovery. "Agriculture is in the best condition in years and has successfully weathered the Hoover depression" thanks to "the AAA, the Farm Credit Administration, Rural Rehabilitation, Soil Conservation, and all other programs federally sponsored." American business "has been placed on its feet through the stimulating influence of the WPA, PWA, the RFC, FHA, the CCC and other agencies [that have restored] purchasing power and confidence."⁸⁵ Another editorial cited federal figures showing that \$1.6 million had been allotted to Nevada over three years via the CCC.⁸⁶ Eight days before the election, the *Nevada State Journal* published a large editorial cartoon on its front page, titled "He Who Pays the Piper Will Call the Tune"; it depicted

a GOP elephant dancing to a flute played by a man labeled "The Old Guard" beside a barrel of cash "contributions" that were "from the Duponts," "from Liberty League."⁸⁷

On the local campaign front, Roosevelt's cause benefited from national broadcasts beamed to local public buildings from Reno radio stations. On June 20, when a meeting of WPA officials from Washington was set to be aired nationwide on NBC, Nevada officials installed a radio inside a room in a state building in Reno so that "WPA workers and all others interested will assemble there to hear Washington's message."⁸⁸ Local officials opened up Reno's civic auditorium and put in a broadcasting system so that city residents, "regardless of party affiliation," could listen to Roosevelt give his nomination acceptance speech on national radio from the party convention in Philadelphia. The program, which was in fact a Democratic Party rally, was to feature a speech by Reno's Mayor John Cooper and a series of music and dance performances.⁸⁹

The Democrat James Scrugham, the *Journal's* former publisher, got some of the election-year attention he wanted when a bill he introduced to relieve unemployed mining prospectors—they were to receive \$1 a day in federal money—passed the House of Representatives. The story had been based on a news release that Scrugham had "wired the Reno United Press last night."⁹⁰ The United Press gave further, almost propagandistic advantage to the New Deal when it sent out an article written by Harold Ickes, who was overseeing Roosevelt's Public Works Administration; he reflected on the program's third anniversary and the many jobs it had created, a story that was placed on the front page of the *Nevada State Journal*.⁹¹ A state report released to the news media found that the federal CCC had spent \$8.3 million in Nevada from 1933 to 1936.⁹² Another state report said that as of October 24 employment by the WPA in Nevada had dropped by about 1,700 to 3,518, but countering that uncomplimentary news was another state report showing that income from crops in Nevada grew to \$10.6 million in 1935, an increase of 85 percent since 1932.⁹³

As the election neared, the New Deal's National Youth Administration reported a 94 percent increase in the number of Nevada high-school kids—from 111 to 205 students in 34 schools—who were receiving aid from the program. The NYA's state director had successfully "petitioned Washington" to increase the quota of Nevada students, who got \$6 a month to work as clerks and at other jobs.⁹⁴ The state also reported that Nevada's holiday turkey crop was up 20 percent over 1935, and the butchered birds would be placed "under federal and state [grading] certificate." The increase in the production of turkeys was claimed to be "about the same as reported in other turkey growing areas of the United States."⁹⁵ Meanwhile, F. R. Carpenter, the director of grazing-land issues for the New Deal, was expected to return to Nevada for a meeting in Elko with livestock farmers, on either October 26 or 27, only a week before the national election.⁹⁶

To climax the campaign in Reno, Republicans held a rally on October 27 at the Masonic Temple in Sparks with the congressional candidate Ed Peterson

and a Princeton University professor, John J. Vetter, on hand to discuss "labor and economics."⁹⁷ The announcement of the Sparks rally appeared in the *Nevada State Journal* beside a story about the PWA granting Winnemucca \$54,370 for a power-generation project.⁹⁸ On October 29, the Republicans sponsored a parade through downtown Reno, led by Peterson and other party hopefuls, with participants walking with red flares to the Washoe County Library, where the Reno municipal band played and a cheer leader stirred up the crowd.⁹⁹

The next day, the Democrats countered with a parade led by Congressman Scrugham and Governor Richard Kirman, followed by hundreds of marchers carrying red flares and banners promoting candidates and joined by the University of Nevada football team, which had a game the next day. The Democrats' exhibition included women marching with "sandwich" signs containing slogans praising New Deal policies. Outside the Washoe County Library at the Democratic rally, attended by a thousand people, the Reno municipal band and the University of Nevada's band played the Roosevelt campaign song "Happy Days Are Here Again," while a girl tap danced.¹⁰⁰ Scrugham also served as the highlight of a party rally in nearby Verdi, joined by Governor Kirman and Charles L. Richards, the former Democratic Congressman. Richards told the gathering that Roosevelt had "succeeded" despite "12 years of republican misrule" and "has been on the job for three years and the world knows the results."¹⁰¹ Kirman told the Verdi crowd: "There have been thousands of dollars spent by the federal government in the state of Nevada, and every dollar of it has passed over my desk. The accomplishments of that are far too numerous to mention, but I do know that there was not one cent wasted or lost in graft."¹⁰²

On Election Day, state officials anticipated a record voter turnout. They estimated that perhaps 44,000 or 74 percent, of Nevada's 59,529 registered voters—of which Democrats had the edge over the Republicans, 36,218 to 19,981—would show up at the polls. The Nevada state manager of the third-party Townsend campaign, Art E. Jeffers, described an attempt by California's Townsend organization to convince Nevada's Townsend supporters to vote for Landon, as a "cheap political maneuver." Earlier, Jeffers had advised "all of the Townsend club members to follow their regular voting inclinations in the presidential race," since William Lemke, the national Townsend-endorsed candidate from the Union Party, was not on the Nevada ballot.¹⁰³ The head of the Nevada Republican Party forecast a "Landon Landslide," based on the *Literary Digest* poll, which showed Landon leading Roosevelt nationally by 500,000 votes and had predicted a Republican win in Nevada.¹⁰⁴ All saloons in Reno were to close while the polls stayed open, from 8 A.M. to 6 P.M.¹⁰⁵

It would be a Roosevelt landslide in Washoe. The county's voting returns put Roosevelt at 9,518 to 4,380 for Landon. Statewide, Roosevelt, with 31,140 votes, bested his Nevada vote total from 1932—28,756—compared to 12,674 for Hoover. Nevada's 1936 total for Landon was 11,487 votes.¹⁰⁶

LAS VEGAS, CLARK COUNTY

Before Landon's nomination in June as the Republican candidate for President, and indeed before Republicans knew who would actually be the nominee, Nevada's Republican Party launched its 1936 campaign at a convention in Las Vegas. "Harmony reigned" at the gathering, stated *The Ely Record*, during which delegates in an "air-cooled theatre" selected delegates to the national convention and appointed the Reno attorney Lester D. Summerfield as national committeeman to replace George Wingfield, whose banks in Nevada had failed in the early 1930s. Nevada Republicans denounced the New Deal and endorsed rather general, even bland, planks on their party platform, indicating how hard it would be to defeat Roosevelt amid better economic news. The planks included upholding a stable United States currency, silver priced at \$1.29 an ounce, "strong support" for the Constitution, and the Supreme Court, an "intelligent tariff" and a comprehensive budget plan, reducing government expenses, and the "belief that a man becoming president 'should be all for the country and not all for the party.'" ¹⁰⁷ "If President Roosevelt is reelected this year, he will be elected again and again until our country is in the grip of a dictatorship," said B. L. Quayle, an Ely delegate selected for the national Republican convention, indicating a mood of despair at the party gathering.

As they would elsewhere during the 1936 election year, well-timed events and government projects further publicized the Roosevelt cause in Las Vegas. For instance, in January, the town's WPA director, Claude Mackey, announced that a planned new fish hatchery, with some nine-hundred-thousand bass fingerlings would be ready at Boulder Lake within a few months. ¹⁰⁸ In June, Scrugham delivered extensive details about a major plan to construct a series of dude ranches and tourist camps, plus 273 miles of roads around the Boulder Dam area using \$5.3 million in federal funds. In a separate announcement, the congressman said that he had secured \$85,000 from Congress to fund a plant to process manganese and other metals in Boulder City. ¹⁰⁹

Also in June, the War Memorial Building, a new, sixteen-hundred-seat auditorium built partly with New Deal funds, was set to open on the 13th with an inaugural ball sponsored by the local American Legion post. ¹¹⁰ Local veterans of World War I received word of the pending arrival of their checks for bonus bonds from the Federal Reserve Bank in San Francisco by registered mail. That same day, June 13, the *Las Vegas Evening Review-Journal* printed a front-page story out of Washington reporting that "President Roosevelt had approved the acquisition of ground for two new veterans' hospitals, including a 25-bed treatment station, to cost not more than \$100,000, in Reno, Nevada, on ground donated by the city." ¹¹¹

In late June, as delegates to the Democratic Party's national convention in Philadelphia prepared to renominate the Roosevelt-Garner ticket, Democrats

in Clark County were organizing themselves, with Boulder City as their center of activity based on the frequency of party meetings there. The head of the "100 Percent for Roosevelt Club" in Boulder City boasted that this group had almost two hundred members. The Women's Democratic Club of Boulder City elected a new board and was invited to meet with the Women's Democratic Study Group in Las Vegas.¹¹² Meanwhile, at the national convention in Philadelphia, Nevada's six-member party delegation, led by Ed W. Clark of Las Vegas, benefited from an unusually advantageous situation (similar to what the Republicans enjoyed with Charles Russell in Ely): The editor of the pro-New Deal *Review-Journal*, A. E. Cahlan, was among them in the City of Brotherly Love and ready to nominate Roosevelt. The delegates selected Cahlan, who decided what the largest paper in southern Nevada printed, to serve as their "honorary vice president" of the convention.¹¹³

Days following Roosevelt's June 26 nomination, Las Vegas learned that the application by their city for a \$112,909 grant from the Public Works Administration for a power transmission line, linked to the Boulder Dam, had been "advanced today to preferred status on PWA books."¹¹⁴ A newspaper dispatch out of Washington claimed that as of July 1, 1936, there were 6.3 million Americans who had landed jobs following Roosevelt's assumption of office in March 1933, a statement of William Green, the president of the pro-New Deal labor union, the American Federation of Labor.¹¹⁵ An editorial in the *Review-Journal*, headlined "Hoover II," criticized Landon for calling for a commission to study revisions to federal banking laws: "More and more it becomes plain that the Kansas governor is simply a second Hoover Has anyone forgotten the mass of commissions named by Mr. Hoover? ... The banking question is embarrassing to the GOP. It ought to be—when nearly 12,000 banks failed under the last 12 years of republican rule."

Although their presidential candidate, the Union Party's man Lemke, was not on the ballot in Nevada, supporters of the Townsend proposal for national old-age pensions made their presence known in Las Vegas. A Townsend group of twenty delegates traveled to Reno to attend the organization's state convention.¹¹⁶ Among them was the Las Vegas lawyer Harry H. Austin, who served as the state's representative to the Townsend national convention in Cleveland, July 15-16. Austin was also to become the third-party group's candidate for Congress and make a surprisingly strong showing in November.

Democrats, led by Senator Pittman and Congressman Scrugham, readied their state party's formal campaign kick off in Reno, on September 23. A United Press report from Reno and published in Las Vegas described Pittman as a "close friend of President Roosevelt and a staunch administration wheelhorse. Pittman will uphold new deal achievements during the past four years."¹¹⁷ On September 24, two thousand Democrats showed up to listen to Pittman and Scrugham. McCarran, a Democrat and a critic of the New Deal, did not appear at the Reno kick off, but did address the Young Democrats of Carson City on

September 22. He predicted a Roosevelt victory in Nevada, but did so in an oddly backhanded way. "From the considerable traveling that I have done in Nevada I find that it is doubtful if President Roosevelt will carry the state—six to one, or by five to one," McCarran said, before assuring the audience that the president would win Nevada by a big margin.¹¹⁸

Clark County Republicans showed little in the way of organizing activity when compared to the Democrats, and even the Townsendites. In October, the Democrats held the Roosevelt Presidential Ball, attracting what was hailed as the "largest crowd ever attending a social function in Las Vegas" at the four-month-old War Memorial Building.¹¹⁹ Democrats planned other campaign programs for the county's small towns of Goodsprings, Bunkerville, and Logandale.¹²⁰ County District Attorney Roger Foley, head of the Clark County Democratic Party, addressed a rally in the eastern-county town of Mesquite, urging voters to mark ballots for all Democratic candidates because "we cannot afford to help out candidates of the other party who are battling our great president."¹²¹ The local Townsend club staged a rally and street parade at Main and Carson streets on October 16. In an advertisement, the Townsend people observed that their candidate for Congress, Austin, in contrast to the Democratic northerner Scrugham, provided "an opportunity to elect a southern Nevadan to congress."¹²²

The Las Vegas-area Republicans finally did show signs of renewed life, though relatively late in the game, on October 23, when they held a rally at the city's Elks Hall, with guests including the Republican national committeemen from California, the local attorney Artemus W. Ham, and four local party candidates. Another Republican rally in Mesquite was set for the following day.¹²³

But the Roosevelt publicity machine continued to churn out its news to Nevadans. On October 23, the Works Progress Administration revealed that over the past year it had employed hundreds of men to work on building and recreation projects in nine Nevada counties, including the bass fish hatchery outside Las Vegas, roads to Mount Charleston, a golf course near Reno, a rifle range in Lovelock, a lighting system in Ely, a golf course in Winnemucca, and high school athletic fields in Winnemucca, Sparks, Fallon, and Reno.¹²⁴ On the lighter side, the Bank Club casino in Reno said it was offering bettors three-to-two odds that Roosevelt would win re-election, with even money that he would win by five thousand votes in Nevada, that Scrugham would garner more votes than the combined totals of his Republican and Townsend opponents, and two-to-one odds that "you can't name nine states that Landon will carry."¹²⁵

On Saturday, October 24, 1936, only ten days before the election, the *Review-Journal* ran a front-page story about a planned dedication of the new grammar school in downtown Las Vegas, on Fifth Street, as described by the local school superintendent, Maude Frazier. The new school was built at a cost of \$187,000, provided by the New Deal's WPA. Among the dignitaries

invited to the Sunday opening ceremony were Secretary of the Interior Harold Ickes, Democratic senators Pittman and McCarran, Congressman Scrugham, Nevada Governor and Democrat Richard Kirman, and Wright L. Felt, chief of Nevada's Public Works Administration—another New Deal program. Also scheduled to be there were the Las Vegas High School band, a color guard, grammar-school children set to sing "The Star Spangled Banner," and a minister to give a closing prayer.¹²⁶ Whether or not the event was a success is unclear, since neither Las Vegas newspaper appears to have covered it.

More of what amounted to free promotion for Roosevelt and the Democrats soon came. That Monday, October 26, the *Review-Journal* gave equally prominent placement to a story about a campaign "closing" rally for the Democrats in Las Vegas, featuring Pittman as headline speaker, at the War Memorial Building. Noting that Pittman's speech would be the "first free public meeting" at the building, the paper said that the Democratic Party's county chairman had mentioned that "it is quite fitting ... that the main speaker will be Senator Pittman, whose efforts were largely responsible for the building and that he will be supporting the cause of President Franklin [sic] D. Roosevelt whose WPA program made its construction possible."¹²⁷

Democrats in southern Nevada remained far more enthusiastic than the local Republicans, if measured by the number of meetings and rallies they held in the closing days. As the election neared, Lieutenant Governor Fred S. Alward, a Democrat, spoke to what was termed a "monster throng" of Democrats—or "Bourbons" as they were nicknamed at the time—in North Las Vegas, on October 26. The Las Vegas Colored Progressive Club planned what the *Review-Journal* described as a "democratic rally for the colored population of Las Vegas" for October 28, where "colored people in Las Vegas are invited to attend."¹²⁸ Boulder City's Young Democrats Club and the One Hundred Percent Roosevelt Club scheduled what was predicted to be the "greatest political parade in Boulder City history"—an "old fashioned torch light parade"—followed by yet another speech by Pittman, at the American Legion Hall, and a two-hour free dance to live music.¹²⁹ Pittman, who had been campaigning for Roosevelt in other states, addressed four hundred people at the Boulder City rally.¹³⁰ A day later, Democrats took part in a four-block-long parade, dominated by party members from Boulder City and county labor groups and led by Las Vegas's Mayor Leonard Arnett mounted on a horse. There followed various Democratic candidates who donned Uncle Sam hats and rode atop donkeys, representing the national party's symbol. The demonstration climaxed at the War Memorial Building with another pep talk by Pittman.¹³¹

Candidates on the entire local Democratic ticket were introduced to the crowd. Then Pittman delivered a long-winded speech, which, as transcribed, ran to three pages in the *Review-Journal*. Pittman declared that the election contest pitted "the reactionary theory of government of the past and Franklin

Delano Roosevelt for the present." "He employed idle men and women, loaned money to towns, cities, school districts, public works or whatever needed it, and buying commenced," Pittman said. "We of Nevada have three electoral votes, and we will be a banner state for the president. My hope is that Nevada, small in population, but independent in thought and action, will give an endorsement greater than in any contest in the U.S. The state of Nevada will give a vote of 28,000 to 14,000 for Franklin Delano Roosevelt."¹³²

Opponents of Roosevelt did get themselves heard though newspaper advertising. On the day before the election, for instance, the Washoe Republican Party placed a large ad in the *Review-Journal*, claiming that Roosevelt's Social Security program amounted to "another tax" of one percent of employee pay, starting January 1, 1937. "It will be used by the employer as an absolute stumbling block in the way of your getting a pay increase for years to come.... This isn't a social security act. It should be called the Social Insecurity Act. Vote Republican for an honest old-age pension act."¹³³ The Republican state committee placed an ad quoting a telegram from Edward J. Margett, the director of the California state Townsend committee, urging Townsend supporters in Nevada "to set aside their partisan policies" and vote for Landon. "We consider Franklin Roosevelt an enemy to the Townsend Plan," Margett was quoted as saying.¹³⁴

The *Review-Journal*, a fervent supporter of and apologist for Roosevelt throughout the year on its editorial pages, emphatically endorsed him on October 28 and suggested that residents vote a straight Democratic ticket since any Republican, local or otherwise, "couldn't be expected to support him."

"For weeks we have advocated the return of Franklin D. Roosevelt as president of these United States and a continuation of the New Deal. ...Generally speaking there are but two parties to be considered. In years gone there has been little to choose between them from a matter of principle...During the last four years, however, all that has changed. The democratic party is the New Deal party of Franklin D. Roosevelt. The republican party is the anti-New Deal party of Herbert Hoover and the Wall Street bankers. You stand for the New Deal and Roosevelt or you are for the Old Deal and Landon. There is no middle ground—there can't be any middle ground."¹³⁵

Clark County Clerk Lloyd Payne predicted the heaviest voter turnout in the county's history, in part based on the record number of absentee ballots, more than 650, compared to only 300 received prior to the 1932 election. Of the nearly 10,000 people registered, about 6,150 were Democrats and 1,350 were Republicans. Payne said that his office was unable to handle the volume of applications from construction workers outside Boulder City, so he arranged for their employers to drive them into Las Vegas so the workers could cast

ballots.¹³⁶ Still, the clerk's office had reported that the rolls of voters, totaling 9,953, had dropped by almost 700 from 1932, when workers were still working on Boulder Dam (later renamed Hoover Dam), which was completed in 1935.¹³⁷

The day before Election Day, Sheriff William E. Mott, himself a returning candidate for sheriff, announced he would enforce the state law by closing all taverns in Las Vegas from sun-up to sun-down, which would be 6 A.M. to 6 P.M., on November 3. "Las Vegas, which ... has never been without the giggle juice even in the height of prohibition, will replace the swinging doors with a padlocked set Not even beer can be sold tomorrow," the paper stated.¹³⁸

Roosevelt's ensuing national landslide was record setting. He received 27.4 million votes, or more than 60 percent of the popular vote, to Landon's 16.6 million, and won every state (including Landon's native Kansas), except for Maine and Vermont. The Electoral College margin was huge: 523 for Roosevelt, just 8 for Landon.¹³⁹

The results in Nevada showed Roosevelt beat even Pittman's prediction of 28,000 votes (Roosevelt garnered 31,140 versus 11,487 for Landon).¹⁴⁰ Democratic Representative Scrugham won with 24,198 to Peterson's 10,717, but the Townsend candidate Austin took in a respectable 6,034 votes. Voters turned down ballot Question One (to grant judges the power to release convicted felons), Question Two (to permit district attorneys and criminal defendants to agree to sidestep jury trials), and Question Four (a state old-age pension proposal). They approved Question Three, which called for amending the state constitution so as to prohibit taxes higher than five cents on the dollar anywhere in Nevada.¹⁴¹ Roosevelt's coattails won out for Democratic state lawmakers, as the party continued to dominate both houses of the Legislature: Eleven to three (and three independents) in the Senate, and a thirty-to-ten edge in the Assembly.¹⁴²

In Clark County, Roosevelt's margin of victory over Landon was nearly four to one (5,082 to 1,182). Roosevelt led by an almost 5-to-1 edge in the city of Las Vegas (2,990 to 722). Although the name of the third-party presidential candidate, Lemke, supported by the Townsendites, was not even on ballot, the Townsend candidate for Congress, Austin, far outpolled the Republican Peterson in Clark County. Austin had 1,407 votes, to only 618 for Peterson, and 4,292 for Scrugham. Democrats won most state and local offices, but Republicans were elected to the county offices of sheriff, recorder, and auditor.¹⁴³

Meanwhile, a day after the election, another piece of promising news from the New Deal greeted Las Vegas: Fifty-two city blocks were to be improved, at a cost of \$76,364 in federal funds and bonds, by the Public Works Administration.¹⁴⁴ "So here's to Franklin D. Roosevelt, the New Deal and four years of prosperity," the *Review-Journal* editorialized.¹⁴⁵

So how did the New Deal affect Nevada, leading up to its standard-bearer's smashing victory at the polls? Nevada benefited greatly from New Deal policies, and appeared to have experienced less of the political turmoil

with New Deal policies than did other states. In Nevada, the New Deal found a cooperative and compliant Democratic governor in Richard Kirman, and attentive and friendly members of Congress in Pittman and Scrugham. The exception was McCarran, a conservative Democrat and a New Deal detractor. But McCarran, nonetheless, did campaign in and outside of Nevada—if with less enthusiasm—for Roosevelt in 1936.

By contrast, in Idaho, to use an example, New Deal policies produced significant and needed temporary improvements in agriculture, and put the unemployed to work, in the first and second New Deals in the early and mid 1930s. Also, as did Nevada and nearly all of the states, Idaho delivered Roosevelt a big victory in 1936. But he was never able to win over the contentious organization of Idaho's Democratic Governor C. Ben Ross, who was often combative with New Deal administrators. Roosevelt also could not assuage "the Democratic factions which polarized around this local [Ross] 'machine' [and] eventually disrupted the entire party coalition in the state ... In Idaho, therefore the New Deal seems to have worked few permanent changes."¹⁴⁶

Conversely, Nevada's citizens and politicians in the mid 1930s appeared to thoroughly enjoy the New Deal's bounty, which gave it more money per resident than any other state. The over-all cooperation Nevada's officials lent to the United States government contributed to smooth relations with New Dealers, and in particular with the way that administrators handled the controversy with livestock farmers over grazing land in places like White Pine County, helped them win decisively at the polls there in 1936. While the Roosevelt administration took advantage of the information it compiled for Nevada, about the money and jobs its New Deal was providing that election year, there was, in fact, a lot to be had for the state, whose mining and agriculture industries rebounded in only a few years following the Depression. No state benefited as much from the New Deal as Nevada did, and few states favored the New Deal as much in return as did Nevada.

NOTES

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³*Ibid.*

⁴Walter Nugent, *Into the West* (New York: Alfred A. Knopf, Inc., 1999), 251.

⁵*Ibid.*

⁶*Ibid.*

⁷Paul K. Conkin, *The New Deal* (New York: Crowell, 1967), 24, 82-106.

⁸John B. Reid and Ronald M. James, *Uncovering Nevada's Past: A Primary Source History of the Silver State* (Reno: University of Nevada Press, 2004), 119-20.

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¹⁰Robert A. Garson and Stuart S. Kidd, eds., *The Roosevelt Years, New Perspectives on American History, 1933-1945* (Edinburgh: Edinburgh University Press, 1999). See Stuart S. Kidd, Chapter 8: "Bureaucratic Dynamics and Control of the New Deal's Publicity."

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¹²*Ibid.*, 267.

¹³Alonzo L. Hamby, *For the Survival of Democracy, Franklin Roosevelt and the World Crisis of the 1930s* (New York: Free Press/Simon & Schuster, 2004), 322.

¹⁴James T. Patterson, *The New Deal and the States: Federalism in Transition* (Princeton: Princeton University Press, 1969) 81

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²²*Ibid.*, 286.

²³*Ibid.*, 289.

²⁴*Ibid.*, 291.

²⁵*Ibid.*, 290.

²⁶*Ibid.*, 293-95.

²⁷*Ibid.*, 296.

²⁸*Ibid.*, 297.

²⁹*Ibid.*, 299.

³⁰*Ibid.*, 298.

³¹*Las Vegas Evening Review-Journal*, (10 June 1936), p. 6.

³²*Ibid.*

³³*The Ely Record*, (3 August 1934), p. 1.

³⁴*Ibid.*

³⁵*Ibid.* (10 August 1934), p. 3.

³⁶*Ibid.* (7 September 1934), p. 1.

³⁷*Ibid.*

³⁸*Ibid.* (14 September 1934), p. 1.

³⁹*Ibid.*, p. 4.

⁴⁰*Ibid.* (21 September 1934), p. 1.

⁴¹*Ibid.*

⁴²*Ibid.* (7 September 1934), p. 8.

⁴³*Ibid.* (12 June 1936), p. 1.

⁴⁴*Ibid.*, p. 6.

⁴⁵*Ibid.* (19 June 1936), p. 1.

- ⁴⁶*Ibid.*, p. 4.
- ⁴⁷*Ibid.* (5 June 1936), p. 6.
- ⁴⁸*Ibid.* (17 July 1936), p. 1.
- ⁴⁹*Ibid.* (21 August 1936), p. 1.
- ⁵⁰*Ibid.*, p.10.
- ⁵¹*Ibid.* (4 September 1936), p. 1.
- ⁵²*Ibid.* (28 August 1936), p. 1.
- ⁵³*Ibid.* (4 September 1936), p. 1.
- ⁵⁴*Ibid.* (11 September 1936), p. 1.
- ⁵⁵*Ibid.*, p. 10.
- ⁵⁶*Ibid.* (2 October 1936), p. 1.
- ⁵⁷*Ibid.*
- ⁵⁸*Ibid.*, p. 6.
- ⁵⁹*Ibid.* (9 October 1936), p. 4.
- ⁶⁰*Ibid.* (23 October 1936), p. 1.
- ⁶¹*Ibid.* (6 November 1936), pp. 1, 3.
- ⁶²*The Humboldt Star* (20 July 1936), p. 1
- ⁶³*Ibid.* (15 October 1936).
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- ⁶⁵*Ibid.* (24 October 1936), p. 1.
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- ⁶⁷*Ibid.*
- ⁶⁸*Ibid.* (26 October 1936), p. 1.
- ⁶⁹*Ibid.*
- ⁷⁰*Ibid.* (27 October 1936), p. 1.
- ⁷¹*Ibid.*
- ⁷²*Ibid.* (30 October 1936), p. 1.
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- ⁷⁵*Ibid.* (4 November 1936), p. 1.
- ⁷⁶*Ibid.* (5 November 1936), p. 6.
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- ⁷⁹*Ibid.* (13 June 1936), p. 12.
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- ⁸²*Ibid.* (6 June 1936) p. 12.
- ⁸³*Ibid.* (27 June 1936), p. 14.
- ⁸⁴*Ibid.* (9 June 1936), p. 9.
- ⁸⁵*Ibid.* (31 October 1936), p. 14.
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- ⁸⁹*Ibid.* (27 June 1936), p. 1.
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- ⁹¹*Ibid.* (14 June 1936), p. 1.
- ⁹²*Ibid.* (22 October 1936), p. 7.
- ⁹³*Ibid.* (28 October 1936), p. 9.
- ⁹⁴*Ibid.* (31 October 1936), p. 2.
- ⁹⁵*Ibid.* (24 October 1936), p. 1.
- ⁹⁶*Ibid.* (23 October 1936), p.1.
- ⁹⁷*Ibid.* (27 October 1936), p. 8.
- ⁹⁸*Ibid.*
- ⁹⁹*Ibid.* (29 October 1936), p. 1.
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- ¹⁰¹*Ibid.* (28 October 1936), p. 2.

- ¹⁰²*Ibid.*
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- ¹⁰⁹*Ibid.* (11 June 1936), p. 1.
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- ¹²²*Ibid.* (14 October 1936), p. 4.
- ¹²³*Ibid.* (22 October 1936), p. 4.
- ¹²⁴*Ibid.* (23 October 1936), p. 1.
- ¹²⁵*Ibid.*, p. 10.
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- ¹²⁷*Ibid.* (26 October 1936), p. 1.
- ¹²⁸*Ibid.* (27 October 1936), p. 1.
- ¹²⁹*Ibid.* (29 October 1936), p. 1.
- ¹³⁰*Ibid.* (30 October 1936), p. 1.
- ¹³¹*Ibid.* (31 October 1936), p. 1.
- ¹³²*Ibid.*, pp. 1-3.
- ¹³³*Ibid.* (2 November 1936), p. 4.
- ¹³⁴*Ibid.* (31 October 1936), p. 2.
- ¹³⁵*Ibid.* (28 October 1936), p. 8.
- ¹³⁶*Ibid.* (29 October 1936), p. 1.
- ¹³⁷*Ibid.* (21 October 1935), p. 1.
- ¹³⁸*Ibid.* (2 November 1936), p. 1.
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*The Rabbit Hole Snipers:
Mining, Making Do, and the Great Depression
in Northern Nevada*

BENJAMIN BARNA

THE RABBIT HOLE MINING DISTRICT

At the height of summer when the occasional off-highway tourists are not stirring up dust, a stillness covers the rolling hills of alluvium that make up the Rabbit Hole Mining District. Such quiet, however, has not always characterized Rabbit Hole. The region's native populations lived and foraged around the area's ever-dwindling water sources for more than twelve thousand years. These water sources, reduced to scattered springs by the mid 1800s, provided meager refreshment for emigrants traveling on the Applegate-Lassen Cut-Off and their oxen. In the twentieth century, miners removed and rearranged the district's hills and gulches in search of gold. Remnants of their efforts can be seen today. Near the upper reaches of Rabbit Hole's gulches, skeletal forms of half-collapsed dugouts and cabins peek out above the cheat grass, rabbit brush, and tumble mustards that cover these hills. Empty hulks of automobiles and water tanks lie scattered among shafts, pits, and adits. Tin cans and broken bottles have settled into low spots around the many gulches.

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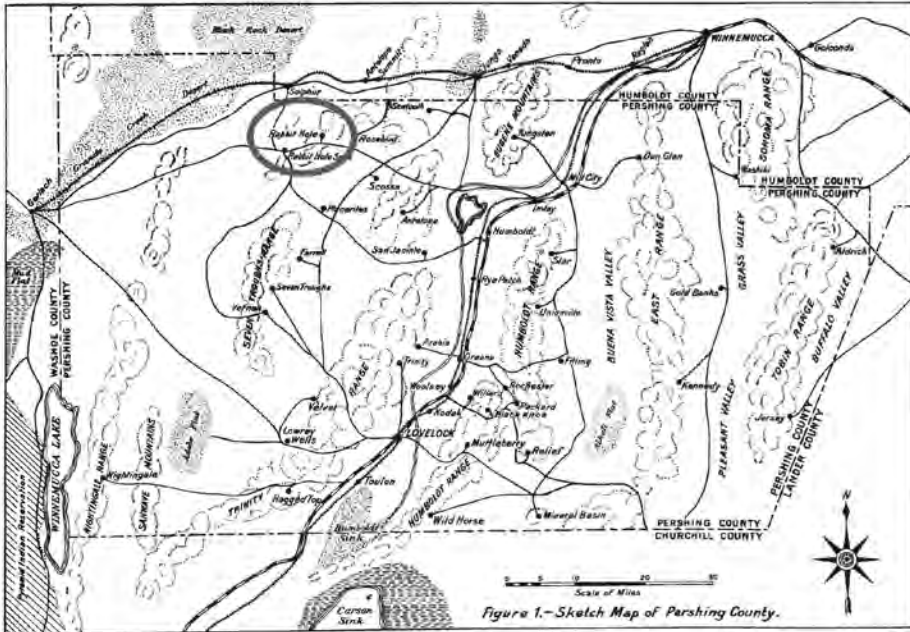


Figure 1. Sketch map of Pershing County, showing The Rabbit Hole Mining District (circled), ca. 1936. (William O. Vanderbug, *Reconnaissance of Mining Districts in Pershing County, Nev. United States Bureau of Mines Information Circular 6902. Washington, D.C.: Department of the Interior*)

This debris, left behind during the peak of the district's activities during the 1930s and early 1940s, tells a story of survival and perseverance through the bleakest of economic times.¹

Within the district, a concentration of placer diggings, located just south and east of the Black Rock Desert (Figure 1), was known as the Rabbit Hole Mine during the Great Depression. A small permanent population and hundreds of seasonal miners settled there to escape economic uncertainty by working its deposits. Although individual reasons for coming to Rabbit Hole varied, among the miners a sense of community and self-sufficiency prevailed: They could make ends meet by themselves, making do when they had to, and perhaps strike it rich if they were lucky. Many came to avoid the hassle and ignominy of unemployment, work relief, or "the dole," yet the details of their daily lives reveal the direct, and sometimes subtle, influence that the far-reaching social and economic upheaval of the New Deal had on this remote corner of northern Nevada.

SMALL-SCALE GOLD MINING IN DEPRESSION-ERA NEVADA

For many in the Silver State, hard times had begun years before the stock market crash. During the late 1920s the entire western United States experienced a progressive economic decline in ranching and mining, Nevada's two largest industries. Cattle and sheep prices, no longer buoyed by wartime demand, decreased in response to the peace and the ruinous state of the post-war European economy. In the years leading up to the stock market crash, ranchers suffered a further blow when the bottom fell out of the beef market between 1928 and 1931. The drought years that followed only confounded their attempts to recover.²

Nevada's precious-metals mining industry also struggled during the 1920s. The booms at Tonopah and Goldfield had run their course, and for much of the decade copper mining in White Pine County kept the industry propped up. Silver output declined sharply during these years until the Silver Purchase Act of 1934 gave the metal a much-needed subsidy. The value of gold production hovered between three- and four-and-a-half million dollars per year through the 1920s, only to fall precipitously after Black Tuesday. As in other industries, the capital needed to back exploration and production projects evaporated as banks closed their doors.³ Precious-metals mining continued to draw interest, however, if not investment. Desire for new gold production was fueled by the increase in gold's value relative to other commodities in the post-crash deflationary economy. Perhaps more important, the federal government continued to offer a fixed price and guaranteed purchase of gold. To many people the certainty of a \$26.50 per ounce (later, \$35.00) payday outweighed their otherwise grim prospects for employment. The Franklin D. Roosevelt administration's monetary policies, as articulated in Executive Order 6012 and the Gold Reserve Act of 1934, reinforced the incentive for people to revisit old mining areas and to prospect for new ones.⁴

Large mining corporations, stung by their loss of capital and potential investors after the stock market crash, were generally unable to take advantage of the incentives the federal government had created. The renewal of interest in gold mining after its initial post-crash slump began instead with miners who operated on a small scale. Individuals, families, and small partnerships were the first to begin prospecting and extracting gold in the early 1930s. The modest return to gold country by people like the Wally Irwins has been described by the historian Charles Miller as "the Automobile Gold Rushes" after their preferred mode of transportation. Mining areas that were almost impossibly remote only a decade or two before were not more than a few days' drive away for Depression era miners. Miller traces the roots of this phenomenon to the Mother Lode country in California and other historic mining districts around the American West. Guided by government and privately printed manuals on mining, newspaper accounts, and word of mouth, unemployed people

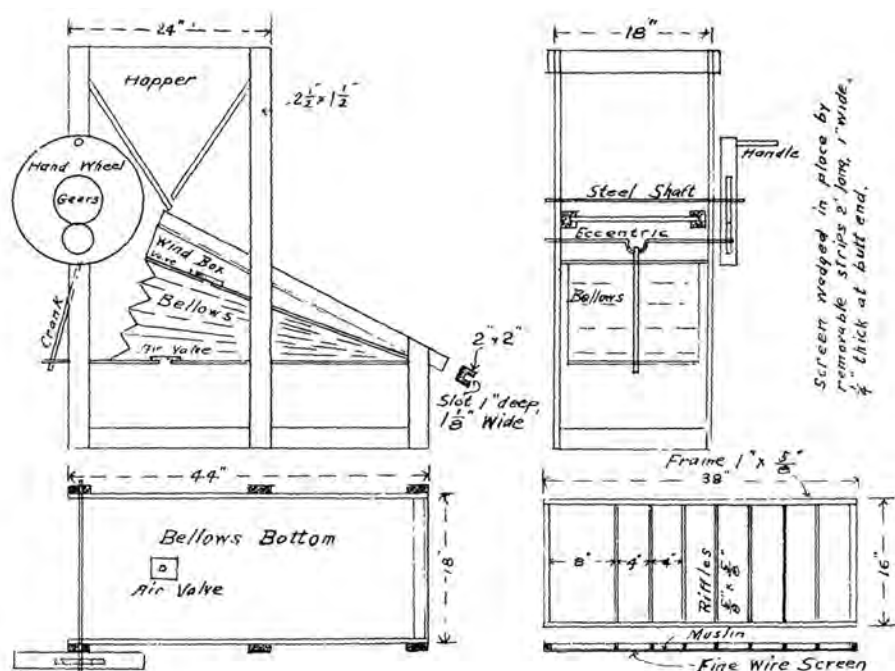


Figure 2. A sketch of a typical dry-washing machine. Ore is fed into the hopper at top left, and as it falls across the riffles below it, the bellows are pumped by turning the hand wheel. (William O. Vanderburg, *Placer Mining in Nevada*, Nevada Bureau of Mines and Geology Bulletin 27 (2001), f. 11)

turned to small-scale gold mining as an alternative to bread lines or work relief. They panned and sluiced streambeds made famous by Forty-Niners and participants of other past rushes. These miners were called “snipers” after their resemblance to the shore bird as they waded along rivers, dipping their pans in as they went. By the middle of the decade, the participants in the automobile gold rushes had explored and proved enough gold deposits around the western states to coax large corporations and their investors back to the mines.⁵

Through the 1930s the progression from small-scale mining to renewed corporate investment could be observed in the placer grounds around Rabbit Hole, and a general pattern emerged. Small corporations, intending to mine on a large scale with heavy machinery, leased claims from individuals or companies. The mining corporations would spend most of their time and

resources developing water supplies and tinkering with their processing plants to make them more efficient. The primary reason for this was that the clays in the Rabbit Hole and neighboring mining districts were notoriously difficult to separate from the gold bound up in them. Sluicing or dredging was best suited for this, but limited water supplies tended to hamper such efforts.

For those without access to sufficient water, dry-washing machines were often an attractive option. These devices, described in more detail below, used air to separate gold from its surrounding sediment. The technology of a dry washer is derived from the practice of “winnowing” for gold with blankets. Like other placering methods, these machines used gravity to separate gold from gravel, but did this in air rather than water. Figure 2 shows plans for a typical design, but innovation and improvisation characterize the innumerable dry washers built by snipers.⁶

Despite their creativity, these corporate miners’ operational costs would inevitably overrun their incomes and force them to abandon their mines and their leases. Snipers would move on the claims and pan or dry-wash until displaced by the next large-scale operator who came calling, confident in some new machine or technique. By 1934, this pattern of mining activity prevailed throughout the Rabbit Hole Mining District, with one notable exception. One group of claims had gained a reputation as being open “to whomsoever will,” because their ownership was uncertain. Some fifty-one snipers were squatting there and would soon be joined by many more, unmolested by mining companies.⁷

THE FAILURE OF THE LANDIS MINING COMPANY

The early years of the 1930s brought frequent changes to American families’ lives as they adapted to the Great Depression’s social and economic landscape. In the spring of 1932, one such family, W. W. “Wally” Irwin, his wife, Ethel, and daughter Doris, turned to mining gold to make ends meet. Irwin had been laid off from his job in Eugene, Oregon, and he had heard that people were working the placers on the Rogue River. After a few months of mining on his own, he found he was unable to earn enough to support his young family, and he joined a mining crew headed for more promising placer ground on the Snake River in Devil’s Canyon, Idaho. Irwin’s employer in Idaho, a former naval surgeon by the name of Dr. Richard P. Landis, had recently returned from gathering ore samples in Nevada and then testing them in Portland, Oregon, using a machine of his own design. The results of these tests convinced him that the land he had leased in the Nevada desert near a place called Rabbit Hole Spring held more promise than his Idaho project.⁸

The nine hundred acres leased by Dr. Landis consisted of six contiguous placer gold mining claims owned by the Associated Royalty Mining Company, headed by A. H. Dela Vega, whose investors mainly consisted of his siblings

and in-laws.⁹ Rabbit Hole could be reached via the unpaved Jungo Road that connected Gerlach to Winnemucca, or via a series of roads from Lovelock that eventually connected to the Jungo Road where it separated from the Western Pacific Railroad at Sulphur (Figure 1). The claims sat atop hills and gulches shaped from ancient alluvial fans southeast of the vast and barren Black Rock Desert, and promoters of the Rabbit Hole district insisted that substantial amounts of gold dust and nuggets were mixed into its gravels. Coarse and fine gold had washed down from Rosebud Peak and settled in a layer over a false bedrock made of clay. This had happened on several occasions, and prospectors and geologists suggested that more than one such layer should exist.¹⁰

The problem of finding and digging the gravels was fairly straightforward, but processing them was another matter entirely. When James Marshall discovered the first of the Mother Lode gold, it was in the waters of a mill tailrace, and the subsequent rush proceeded up-stream. The flowing water of the Sierra Nevada streams was readily available for panning and washing the gold from its surrounding sediments. Although there was a spring at Rabbit Hole in which Landis had confidence, he spent much of his short tenure in the district attempting to supply enough water to operate his gravel-washing machine profitably.¹¹

Work began swiftly in the summer of 1932. The mining crew built and moved into the company's camp. Most of them lived in tents, but some, like the Irwin family, built cabins or dugouts. Landis and his wife took up residence in the more cosmopolitan Reno, where he continued his medical practice. He had separated from his partner in the Idaho venture and, once established in Reno, he incorporated the Landis Mining Company with several of his crew as vested partners. The crew, headed by two veterans of the Tonopah rush, installed pumps and pipelines to bring water to Landis's gravel-washing machine, which they constructed near the spring. They improved three miles of road between the spring and the mine itself to accommodate a small fleet of dump trucks that would haul gravel to the washing plant. To reduce losses of gold on the drive between the mine and the plant, his crew lined the beds of the trucks with heavy sheet iron.¹²

Once these preparations were completed, they began to dig. With a power shovel, they ripped into the walls of the gulches and filled the five dump trucks. The drivers hauled ore to the machine at the spring, where it passed through a series of treatments to separate coarse and fine gold from the gravelly clay. The fleet of trucks dumped their loads into a bunker at the plant, where a belt conveyed it to a twelve-by-four-foot revolving screen. Inside the screen, water and friction removed clay while sorting out gravels greater than one-quarter inch in size. The screened material was fed over a ten-foot launder, which disintegrated and washed away more clay, then to a shaker table three feet wide by sixteen feet in length. Hungarian riffles on the table recovered coarse gold within the gravels. Gold-bearing concentrate passed from the table through a smaller revolving screen, this one measuring four-by-six feet, and onto a sliming table. Slimes, very fine crushed ore suspended in water,

were eliminated on this table, and the remaining black sands transferred to a Berdan amalgamator. This device, essentially a large pan set at an angle, rotated while large balls of steel or iron placed inside rolled freely to grind the black sands in water. Mercury added to the pan amalgamated with the fine gold, and waste material floated on the surface of the water to be discharged over the pan's lip.¹³

By the new year, Landis expanded his operation. The local press credited his decision to the mine's early success, but it also appears that increased production might have been necessary to turn a profit. He added two new trucks to the fleet, and his crew's gold production rose through the winter and spring. Brimming with optimism, Landis offered to purchase the claims from the head of the Associated Royalty Mining Company, A. H. Dela Vega, and found him eager to sell. The two reached an agreement in March of 1933. Landis filed paperwork for new claims on the site of the ones he had purchased, officially changing their names to the Neva-Gold group.¹⁴

The transaction did not go smoothly, however. Dela Vega sold some of the Associated Royalty Mining Company's claims to Landis without the consent of the other company officers. These other officers, led by the company's vice president, William Simmons, opposed the sale. Friction between the two men came to a head when Dela Vega sued for clear title to the mining properties. The details of the suit caused confusion from the outset. The presiding judge, L. O. Hawkins, complained that he could not determine where these claims were, let alone who properly owned them, and he postponed the case until adequate maps could be submitted. Whether Judge Hawkins ever received this information is unclear; the four townships around the Rabbit Hole area have yet to be surveyed by the Public Land Survey System, although several maps of claims and water projects were filed with the State Engineer's office.¹⁵

By April the court proceedings had taken their toll on Landis's operations. Wally Irwin sold back his three-eighths share in the Landis Mining Company, but remained on the payroll. The disagreement between Dela Vega and Simmons dragged on another four months, and in August Landis's money and luck ran out. His remaining partners sold their shares back to him. When Dela Vega and Simmons finally reached a settlement that would have allowed Landis to buy claims, he could no longer meet their price. With no cash and unable to continue mining, Dr. Landis abandoned the Rabbit Hole Mine.¹⁶

Landis was able to fall back on his medical practice, but most of the former employees of the company were left nearly penniless and without means to support themselves. With nowhere else to go, they stayed at Rabbit Hole. They continued to pan and dry-wash what gravels they could dig by hand. In the harsh winter that followed, they survived on canned food bought with gold nuggets and dust, and supplemented their diets with jackrabbits. By the time the snow began to melt, word had begun to spread that in a place called Rabbit Hole a person could earn around a dollar a day mining for placer gold on claims nobody really owned.¹⁷

MAKING DO AMONG THE RABBIT HOLE SNIPERS

Newcomers to Rabbit Hole brought with them a variety of experience with dry-placer mining. Some were old-timers and veterans of recent mining rushes, while many others, like Wally Irwin, were still new to the trade. As his daughter Doris described him, he “never was a miner” and, in fact, “didn’t know beans” about it. Her mother, on the other hand, was much more competent and contributed to the district’s reputation for reliability when she struck a “hot spot” of pay dirt. This find allowed the family to drive into Reno and buy a new pick-up truck to replace the much abused one in which they arrived in 1932. Stories of large strikes, or at least the possibility of them, at Rabbit Hole and other placer camps appeared in local and syndicated news stories around the nation throughout the decade.¹⁸

While they made for good press, such large strikes were atypical. Most miners only scratched out a meager day’s living. Many came to Rabbit Hole with very little to their name, and most left that way. To make ends meet when down on their luck, snipers relied on and helped each other as much as they possibly could. Making do became a way of life at Rabbit Hole, as it had around the United States. In one sense, making do is an attempt to maintain a standard of living when social or economic factors make this difficult. The rising consumerism of the early twentieth century, and especially the post-war boom of the 1920s, created cultural practices among Americans based on the use of commercially available and increasingly specialized products. For example, all the necessities of typical American domestic life could be purchased by catalog, from kitchenware to a pre-fabricated house. As people’s money ran out, the expected things of daily life became scarce or unavailable. This was especially true for those who struggled to scratch out a day’s wages at Rabbit Hole.

The combination of Rabbit Hole’s location and environment, the economic situation, and the technological challenges of mining in the district created a scenario where making do was vital to people’s survival. As a popular saying from the time went, the snipers would “use it up, wear it out, make it do, or do without.” By making do they stretched their limited resources, substituted for unavailable materials and techniques, or learned to live without certain things they were accustomed to having. They made do in many facets of their lives, from mining to keeping out of the elements. In their relative isolation they created their own makeshift social institutions. Railroad ties, automobiles, tin cans, and other commonplace things became important resources for building, repairs, and mining.¹⁹

MAKING DO AND SOCIAL INSTITUTIONS

As in other frontier mining towns, a transient population in the presence of valuable minerals created the potential for trouble. The number of snipers, most of whom were single men, swelled each year to the hundreds during

spring and summer. By the first snowfall most would migrate to warmer climes and leave as few as fifty snipers to winter over at Rabbit Hole. For three years no formal regulation governed how snipers, whether permanent residents or seasonal workers, mined on the claims they occupied. Snipers dug glory holes and adits where they pleased, and any miners who seemed to have found a promising location drew unwanted attention and company. Bragging, tensions between members of ad hoc partnerships, and misunderstandings inevitably led to disagreements. Nearly any argument, fueled by a mixture of poverty, gold, alcohol, and weapons, could have ended in blood. Life at Rabbit Hole, however, was fairly civil, and the district never gained a reputation for lawlessness despite a couple of newsworthy incidents. This may have been because irresolvable disputes among miners meant a trip by the injured parties into Lovelock to see the authorities. This could take up the better part of a day, and in the end, although their presence was tolerated the snipers technically had no legal right to mine where they did.²⁰

Disagreements among miners became more common in the latter part of the decade as surface deposits of gold became scarcer and the number of snipers increased. With the entire population at Rabbit Hole in dubious legal standing, a make-do solution to maintain order was needed. In August of 1937, two snipers named Otto Miller and Fred Potter uncovered a fairly rich patch of gold-bearing gravel. They began to argue over how the gold was to be divided. One claimed the other was his employee and entitled to a smaller share, while the other insisted that the two were working as equal partners. A few other snipers overheard their argument. Sensing that the two were unlikely to reach an agreement, they suggested that a makeshift court with judge and jury settle the matter. Miller and Potter agreed to this. Twelve snipers, a judge, two recorders, and the aggrieved parties convened at Baldy Mullin's tent, which on other occasions served as a saloon. Ben Pasch, proprietor of Ben's Place, the other saloon at Rabbit Hole, presided as judge in this, the first kangaroo court at Rabbit Hole. After hearing evidence, the jury found that Miller and Potter were in fact equal partners and should share their findings accordingly. The two shook hands in agreement, and the decision was further sealed by several cases of beer drunk in celebration.²¹

The court met on several other occasions, and one of its functions was to run out "troublemakers." Despite the presence of the kangaroo court, at first the snipers' make-do legal system had no means of establishing what constituted making trouble. Most problems derived from disagreements over who was entitled to mine in a particular part of the placer grounds, and newcomers to Rabbit Hole tended to be unfamiliar with the traditions practiced by more established inhabitants. By November of 1938, this had become enough of an issue that a meeting was called to draft regulations for the placer grounds. Wally Irwin, still mining at this point but living with his family in Sulphur, presided over the meeting. Fifty-four snipers present wrote a brief code of rules and formed a

committee to settle any disputes. The rules created a means of legitimizing sniper "claims" within the disputed placer grounds. Claim-staking procedures were modeled after the General Mining Law of 1872, but with the size of claims scaled down from the twenty-acre maximum allowed by the law to two hundred square feet, a size more suitable to working by hand. Spatial analysis of the more than twenty-seven adits recorded as existing in the walls of Rabbit Hole's gulches could potentially be used to detect this system of claim procedures on the landscape.²²

In addition to determining how much ground on which snipers could mine, the regulations established property rights that guaranteed unmolested access to diggings and tailings. Kangaroo courts were convened to enforce these rights on more than one occasion, which in extreme cases could result in a sanction as drastic as ostracism from the placer grounds. A sniper named Consiglio Campitelli appears to have received such a fate. He arrived in the district as early as 1934, and occasionally supplemented his own mining by conducting assessment work on adjacent claims. Throughout his time at Rabbit Hole, Campitelli made frequent trips into Lovelock to buy provisions for himself and other snipers. A veteran of World War I, Campitelli's injuries made him unable to work for long periods. He compensated for this by digging sporadically, often late into the night, and this habit may have gotten him in trouble with his fellow snipers.

Within a year of joining the placer ground's rules committee, Campitelli abruptly left Rabbit Hole for Reno. Doris Venable, Wally Irwin's daughter, recalled that Campitelli was summoned before a kangaroo court and sent away from Rabbit Hole for "sneaking around."²³ Perhaps an overly-zealous attitude about his appointment to the rules committee, or nothing more than his nocturnal work habits, led to the charges of snooping into other miners' diggings at night, in violation of the snipers' regulations. The social power of the kangaroo court was considerable within the snipers' placer grounds, but its authority existed only insofar as the affected parties agreed to its decision. These courts could settle small disputes, but the most serious offenses remained under the jurisdiction of Pershing County's sheriff.

The most notorious incident at Rabbit Hole thrust the snipers into Pershing County's official legal system. An argument between snipers over unpaid wages erupted into shotgun fire in 1939. The victim, Joe Henicksman, was shot at close range with a shotgun. The blast shattered his knee, and Henicksman died in the Winnemucca hospital after an operation to repair the damage. Two snipers, named Pete Kazange and Joe Williams, were arrested and tried for murder in Lovelock. After a hung jury, the two were eventually convicted in a second trial on a lesser charge of assault with intent to commit great bodily harm. Judge Hawkins, who presided over the case, was infuriated by the jury's leniency, and delivered the maximum sentence to both men of one-to-two years in a state prison.²⁴

The make-do social institutions created by the snipers in the late 1930s were based on conventional institutions with which they were familiar, but

were limited in scope and jurisdiction. They were improvised to fill gaps in social organization created by the fact that the sniper camps existed in a legal "limbo." The Associated Royalty Mining Company and Pershing County's officials turned a blind eye to the truth that the snipers were squatting on the claims. William Simmons, who controlled an interest in the claims throughout the 1930s and early 1940s, wrote in defense of the snipers, calling them "honest, hardworking prospectors," to which he added that he knew "from experience that what a man takes out in that country, he really earns." Simmons undoubtedly referred not only to the challenges miners faced at Rabbit Hole, but also to the pains they took to overcome them with their limited means. Miners at Rabbit Hole relied on making do in several phases of mining, from extraction to the processing of gravels to recover their gold.²⁵

MAKING DO AND MINING

The challenges of extracting gold-bearing gravels with limited resources stimulated the creativity of snipers. Unlike the employees of better-capitalized mining companies, snipers could not rely on heavy machinery to excavate the gravels. Most employed a shovel and some sort of hand-built or purchased gravel-washing device. Digging simple glory holes by hand was adequate in the early years of the snipers' occupation, but by 1937 deposits of gold near the surface had largely been exhausted. The snipers found they had to chase the ore underground, borrowing techniques from hard-rock mining. Using shovels, hand-steels, and even black powder, they dug and blasted shafts, adits, and drifts into the gulches around Rabbit Hole. They shored them up with scraps of lumber and railroad ties scavenged from the nearby Western Pacific tracks. To move their gravels to the surface, they improvised conveyance systems from items on hand. Some of the more elaborate of these used rubberized canvas belts with tobacco cans attached to carry out the gravels.²⁶

Underground, the snipers took more risks. By 1941, Ben Pasch, owner of Ben's Club, had married and moved on from Rabbit Hole. He left behind his saloon and store, which he sold to the Irwin family, as well as his placer workings. A sniper named Ben Morton was rooming with the Irwin family and working in Ben Pasch's Hole with his partner Arthur Allen. Sixty feet underground and seventy-five feet into a drift, they noticed that the gravel pillars supporting the roof of the drift contained gold. The two snipers removed one pillar, ran it through their gravel washer, and recovered an ounce of gold. Not content with the \$35.00 they had just made, they returned below. They removed a second pillar, and the drift collapsed. The cave-in partially buried Morton and trapped Allen deep inside the drift. The two called to each other, unable to move. After the roof of the drift fell a second time, and Allen stopped answering Morton's calls.

When Morton did not return to the Irwins' home that afternoon, Ethel Irwin sent another sniper, Otto Miller, to find him. Miller discovered him still alive, and with the help of several others frantically dug him out. The roof collapse had fractured Morton's hip and leg and left him with internal injuries, but he was alive. The rescue party found they could not reach Arthur Allen; he had been sealed inside the drift by the cave-in. Thinking quickly, Miller and the others tunneled through a nearby shaft, but their efforts were too late. Arthur Allen's crushed and lifeless body was brought to the surface and taken to Lovelock the next morning. The state mining inspector blamed the collapse on the inadequate support provided by several pieces of two-by-four lumber that Morton and Allen had used to make do for shoring.²⁷

Accidents like this were fortunately very rare among the snipers, and the consequences of making do with discarded or second-hand equipment were generally beneficial. This was especially true when it came to processing the placer ore at Rabbit Hole. Large-scale gravel washing conducted by corporations and small companies made use of heavy machinery and large amounts of water. These methods attempted to duplicate the effectiveness of placer mining near rivers. Using water to take advantage of gold's high specific gravity, these machines often could recover as much as 80 percent of the fine gold entrained in the gravels. For snipers, however, such equipment and the results they could produce were financially out of reach. Panning could be effective with practice, but those who sought to recover more gold in a day than they could pan relied mainly on dry washers.

The most basic dry-washing machines used a hand-cranked bellows to blow air across gravels as they passed over a set of riffles (see Figure 2). Dry washers could be built with relatively little expense from lumber, canvas or burlap, wire mesh, and a few other materials. Returns were significantly lower than those from wet-placering because dry washers were usually no more than 50 percent effective in removing and capturing gold dust. Miners also needed to dry out their ore and break up clumps of clays before running them through their dry washers. Attempts to improve recovery percentages or integrate other ore-preparation steps into a single machine complicated the dry-washer designs. For example, a machine designed and built for use in the nearby Sawtooth Mining District used a vacuum system to suck the clay from gravels rather than blast them with puffs of air. Miners seeking to break up the clays in the region's gravels devised machines to batter their ore with a variety of blunt objects that ranged from wooden paddles to spinning lengths of chain.²⁸

Some snipers tried to make up for their dry washers' deficiencies by motorizing them. They scavenged engines and motors from a variety of machines, and may have cannibalized their own vehicles to power their dry washers. By connecting an engine or motor to the bellows and riffle boards, they could process more gravel in a day than by hand. During his tour of Nevada's placer gold districts in 1934, William Vanderburg of the Nevada Bureau of



Figure 3. At top, T. J. Basford's dry washer powered by an automobile engine. At bottom, C. B. Richardson's dry washer powered by a makeshift electrical system. Photographer unknown. (William O. Vanderburg, *Placer Mining in Nevada*, Nevada Bureau of Mines and Geology Bulletin 27 (2001), pp. 151-153)

Mines photographed two examples of powered dry washers at Rabbit Hole. In Figure 3, the top photograph shows a sniper named T. J. Basford with an automobile engine connected to the bellows of his dry washer. The model in the lower photograph was built by C. B. Richardson of Sulphur, Nevada. His electrically powered dry washer was run by a Maytag engine, which drove a generator Richardson made by converting a one-half horsepower motor for this purpose. The generator was connected by a fifty-foot cable to a smaller motor mounted on the dry washer. This smaller motor, which Richardson reportedly bought used, powered the bellows of his machine.²⁹

MAKING DO AND ARCHITECTURE

Improvising shelter from the limited resources found in the Great Basin has long been practiced among miners. Familiar construction materials were often unavailable, and miners creatively reused materials that in other contexts would be considered trash or inappropriate for long-term shelter. Bottles, cans, barrels, and railroad ties appear in the architecture of mining towns and camps throughout Nevada and the American West.

Examples of make-do architecture can still be found at Rabbit Hole. While most snipers were transient and lived in tents, a few snipers constructed more permanent shelter. Some found shelter in adits, either abandoned ones or the same ones in which they were mining. Archaeologists working at Rabbit Hole recorded one adit that a sniper had converted to a one-room dwelling; evidence of a few creature comforts were still inside. Near the entrance, a rough earthen bench had been cut into the wall, and some nails remained driven into the gravel walls from which the sniper could have hung things such as coats, hats, or perhaps artwork. A door on the portal provided privacy and security. A small stove, long since removed from the adit, had been vented through a stovepipe that still ran through the earthen roof. This adit house may have been built and lived in by a sniper named Bob Chandler.³⁰

One visitor to Rabbit Hole in the late 1940s commented on the make-do nature of this kind of housing. In *Prairie Schooner Detours*, Irene Paden's husband dramatically notices the entrances to several of these "caves":

Just then words came from my astonished partner. "To think," he exclaimed, "of Americans living like gophers in holes!"

"Furl your flags," I advised; "it's only one more proof of our adaptive-ness. If I had to live in this dusty hot gully I can't think of a better place than a cave."³¹

Although Irene Paden also confesses to being initially "upset by the notion of civilized people living under such conditions" which were "beneath our



Figure 4. Snipers pose in front of Ben's Club, one of two saloons at Rabbit Hole. Top row: Unidentified, Frank "Bunk" Noble, Ben Pasch, Harry Skull, F. G. Hardan, George Reed, Ethel "Ma" Irwin, ca. late 1930s. Photographer unknown. (*Doris Venable*)

lowest standards," she comes around to the idea when she compares what she sees to her memories of summer heat-waves in Boston.³² To the snipers, however, nothing could have been more practical or appropriate. Doris Venable described Bob Chandler's adit house as "wonderful because in the wintertime you stayed warm, summer you stayed cool. Of course you're like a bunch of rabbits or something."³³

Some of the year-round residents of the district lived in more conventional buildings. The Landis Mining Company built cabins for its employees, including the one the Irwin family lived in before they moved to Sulphur. The saloon and store called Ben's Club was built from railroad ties by its proprietor, Ben Pasch (Figure 4). Lumber was expensive compared to the abundant supply of used railroad ties, which could be obtained from the Western Pacific railroad seven miles to the north.³⁴ A cabin designated Feature 9, now mostly buried by mining activity, resembled a log cabin built from stacked railroad ties with the spaces between them chinked with newspaper. Nearby, a three-room cabin, Feature 6, has railroad ties incorporated into its walls, and the roof in its main room is supported by two utility poles used as roof beams. Another way to stretch limited materials was to build a dugout instead of a cabin. Dugouts were made by cutting and leveling a living space out of a hillside, then enclosing its open sides with walls and a roof. Most dugout superstructures at Rabbit Hole are built mainly from lumber, but nearly all required the inclusion of at least a few scavenged items, such as railroad ties or sheet metal, to complete the building.

To make their residences watertight and relatively dust-proof, snipers relied on other make-do materials available around the placer grounds. Sheet-metal tanks and barrels, unrolled and laid flat, made effective roof and wall coverings. Smaller pieces of sheet metal were improvised from whole or partial automobile doors and body panels for use in patching holes in walls. At one dugout, designated Feature 39, a sniper scavenged sheet metal by cutting it out of an automobile door. In another, designated Feature 42, gaps in the wooden walls were patched with the hoods from at least three different 1930s-era automobiles (Figure 5), including the hood from an early 1930s Ford Model-A pick-up truck that was encountered nearby.

Snipers used other make-do materials to line the interiors of their cabins and dugouts. A small side-room in Feature 6, the three-room cabin, was lined by tacking carpet to the walls with nails driven through crown caps. The crown caps prevented the carpet from ripping away from the nails. Snipers more commonly lined interior walls with flattened cardboard boxes, which were more readily available than carpeting. Simply nailing or tacking the cardboard panels to the walls would have made it easy for them to rip away from their nails. To prevent this, the snipers who hung them nailed them in place with thin wooden slats on top of the cardboard; the slats in Feature 6 were taken from disassembled packing crates (Figure 6). Packing-crate slats were also used to



Figure 5. Hoods from at least three 1930s-vintage automobiles were used in the construction of the dugout recorded as Feature 47 by archaeologists from the University of Nevada, Reno, 2006. Photograph by Sean McMurray. (*Sean McMurray*)



Figure 6. Packing crate slats reused as construction materials at Rabbit Hole. At top, a slat from a California Grower's Exchange (now Sunkist) crate holding cardboard lining in place against the ceiling of the cabin designated Feature 6. At bottom, a slat from a crate addressed to W. W. ("Wally") Irwin used in the wall of the dugout designated Feature 39, 2007. Photograph by Sean McMurray. (*Sean McMurray*)

cover interior walls of cabins and dugouts. An occupant of Feature 39 covered a narrow space in a corner of the dugout's single room with a slat from a packing crate that had been shipped to Wally Irwin in Sulphur, Nevada.³⁵

Making do is strongly associated with the experience of Americans during the Great Depression, but it should be borne in mind that people improvise creative solutions to problems whenever resources are scarce. Homesteads, mining towns, and frontier settlements are often the sites of making do partly because of their relative isolation from the kinds of materials or craftsmanship available in more developed areas. The snipers at Rabbit Hole faced resource scarcities caused by economic pressures and exacerbated by the location's remoteness and environment. The difficulty of dry-placer mining in the district posed another set of problems. To these challenges the snipers responded by making do with what they had—among other things, railroad ties, tin cans, and each other.

ALPHABET SOUP, EVEN AT RABBIT HOLE

Make-do solutions to social, economic, and housing problems at Rabbit Hole imply a degree of self-sufficiency among the snipers. Most contemporary descriptions of sniper life in the local and syndicated press agree with this image. Wally and Ethel Irwin's daughter, Doris, has also emphasized that snipers "took care of each other." Whether pitching in to make supply runs into town or passing the hat when a miner was in need, taken as a whole the community of snipers appears to have been able to survive the Great Depression by making it on their own, either individually or as a community.³⁶ At first glance, their ability to find creative ways to build shelters or increase the capacity of their dry-washing machines reinforces this image. The material things with which they made do, however, also connected them to a number of programs and policies implemented by federal, state, and local governments. The New Deal, with its "Alphabet Soup" of agencies and programs, had a significant impact on their daily lives in ways that were similar to those of most other Americans.

Clues written in a sniper's own handwriting give insight into connections between life at Rabbit Hole and the New Deal. While national and local news was available through newspapers in Lovelock, Winnemucca, or the smaller railroad stops at Gerlach and Sulphur, news could be obtained via radio without ever leaving the mining camp. A sniper living in Feature 39 owned a battery-powered receiver and paid special attention to radio news programming. Writing on the cardboard surface of the dugout's interior wall, this sniper listed times, AM-band frequencies, and call letters for news broadcasts that could be picked up throughout the day (Figure 7). The broadcasts originated all around the Great Basin and California, from Salt Lake City, Reno, the San

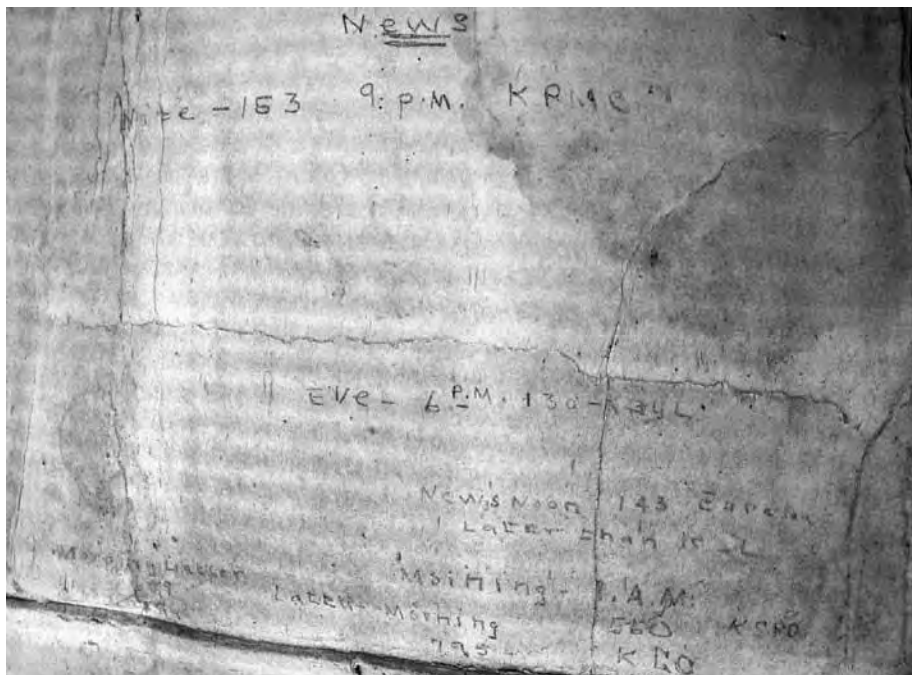


Figure 7. Sometime between the years 1935 and 1941, a sniper wrote a schedule of radio news broadcasts on this piece of cardboard lining the interior of a dugout at Rabbit Hole. (*Benjamin Barna*)

Francisco Bay area, Eureka in northern California, and Bakersfield in the San Joaquin Valley. The six stations provided national and regional news and other programs that ranged from fireside chats to religious services and music. Daily receipt of news undoubtedly kept the problems outside the placer grounds in the snipers' thoughts.³⁷

The material residue of snipers' consumption habits provides evidence of other connections with Depression-era America. Many of the boxes reused to line the interior walls of Feature 39 and other dwellings originally held produce imported from California and other commercial goods from around the country. The quantity of food required by the community suggests that they would have provisioned themselves in bulk, or at least in quantities such that boxes lining interior walls came to Rabbit Hole with food in them, and probably not simply as empty, leftover

packaging. Trash middens around Rabbit Hole contain tin cans, glass jars, and bottles left behind by the snipers, and these also testify to their reliance on commercial food products. The thousands of leftover tin cans recorded by archaeologists at Rabbit Hole identify some of the canned meat, juices, fruits, and milk on which they subsisted. Preliminary inventories of cans in Rabbit Hole's can dumps appear to be dominated by number 3 cans and smaller. This suggests that if snipers were buying food cooperatively, they were probably dividing boxes of smaller sized cans among themselves rather than sharing meals prepared from large cans of food. An alternate possibility is that larger empty cans may have been scavenged and reused or recycled; a few dugouts and cabins have flashing or shelf liners made from large flattened cans.³⁸

Most of the food eaten at Rabbit Hole was industrially produced or grown, packaged by wageworkers in factories or picked by migrant workers in the Central Valley, shipped by train and truck, and purchased at markets in Pershing and Humboldt counties. New Deal programs intended to raise commodity prices, namely the Agricultural Adjustment Act from 1933 to 1936 and later the Soil Conservation and Domestic Allotment Act, affected the prices and availability of the food that made up most of their diets. As the snipers generally did not grow kitchen gardens, they were dependent on food and commodities that they imported from outside the district.

To buy food and other commercial products, a sniper had two options. In the cash-strapped placer grounds and in stores in Sulphur, gold dust or nuggets could be used for small informal economic transactions. If in need of cash, snipers could sell their finds to buyers who could more easily amass the two ounces required for shipment to the United States Mint. Gold buyers had been present in mining areas since the days of the Mother Lode, and while their presence was nothing new, they held an important role in the Roosevelt administration's larger strategy for economic recovery. Gold buyers were an instrument of the administration's attempts to create inflation by bringing more gold to the Treasury; Executive Order 6102's collection of gold was part of that plan, and was the increased government purchase price of \$35.00 an ounce. The volume of gold put into the economy from the district may never be known, although it certainly was no great amount. Few snipers got rich at Rabbit Hole, but most earned enough from day to day to stay afloat. While many considered themselves to be self-employed, independent, and especially "off the dole," others found their way to the district with the help of a county relief program.³⁹

Pershing County's residents approved of providing a small amount of relief in exchange for work, especially if the work was particularly off-putting. With limited funds for aiding the indigent and out of work, Pershing County's relief committee made a clear distinction between residents and transients. Relief monies for the indigent (widows and the disabled) were reserved

for locals. County residents were given priority in filling crews for public works such as road improvements, and locals were encouraged to join the rolls of popular New Deal programs like the Civilian Conservation Corps. Transients, on the other hand, were perceived as a burden on the county and community. They were given a treatment in line with a certain frontier ethos—transients were provided with work relief that entailed harvesting or processing resources on behalf of the county.

For example, in the spring of 1932, transients had begun to stop over in Lovelock on their way to or from California. To deal with the influx of hoboes looking for meals, Pershing County's Sheriff C. A. Chapman purchased a large number of railroad ties from the Southern Pacific Railroad. He piled these in an empty lot across from the courthouse and constructed a large sawbuck. Transients seeking a handout could earn a meal by sawing up three ties with a large cross-cut saw the sheriff brought to the lot. By late November, the pile had almost been used up, and Chapman made plans to purchase more. The Southern Pacific happily donated the replacement ties, and by the new year the Lovelock Review-Miner boasted that the woodpile had all but eliminated the number of transients seeking shelter in town. What became of the sawn railroad ties was not mentioned in the local press, and it would be interesting to know how the fruits of hobo labor were used by the county government.⁴⁰

Rabbit Hole figured into Pershing County's approach to transients nicely. Officials were anxious to control the transient population in Lovelock, and they were also interested in promoting the county's mining areas. Killing two birds with one stone, the Pershing County relief committee provided a small grubstake, consisting of food, gasoline, and instruction in placer-mining technique. Details of this program are unknown, but it probably was enacted after October 1933, when the county relief board was formed. This board was created to take advantage of newly available unemployment relief grants funded through the state with money from the Federal Emergency Relief Administration, and, later, the Works Progress Administration.⁴¹

While Pershing County's small grubstake program appears to have been the only direct link between a New Deal program and Rabbit Hole, the snipers were also connected to the sweeping governmental changes in other, more subtle ways. Through their subsistence and economic practices, they were integrated with the national, state, and local economies in such a way that the effects of the Great Depression were felt even at the edge of the Black Rock Desert. As gold miners, the snipers were also minor players in the Roosevelt administration's attempts to manipulate currency values through monetary policy. New Deal programs affected the prices and availability of most of the food they ate. On a purely social level, snipers connected and engaged with events outside of the mining district through their radio sets and other media.

THE END OF THE SNIPER RUSH

The Rabbit Hole snipers weathered physical and economic hardship for nearly a decade, but the desires of a mining company headed by “outside interests” was to lead to the abandonment of the sniper camps. In November 1940, the Rosegold Placer Company obtained leases to claims at nearby Barrel Springs. Rosegold spent the next year developing their Barrel Springs claims, but it became apparent that their profits from Barrel Springs would be insufficient. The company also held a lease on the Neva-Gold claims, where seventy-five snipers were living at the time. To expand their operations into the Neva-Gold group, Rosegold broke with William Simmons’s policy of keeping the claims open and attempted to evict the snipers.⁴²

Rosegold’s superintendent first tried to evict the snipers using legal means. He accused the snipers of trespassing and sought criminal charges against them from the county’s attorney general. This ploy was thwarted, however, as District Attorney Sanford A. Bunce saw through what amounted to Rosegold’s thinly disguised attempt to gain quiet title to the claims. Changing tack, Rosegold’s superintendent then tried to remove the snipers by disrupting the social fabric of their camps. He accused the two saloons, Ben’s Club and Baldy Mullin’s place, of violating health and liquor laws, and insisted their licenses not be renewed for the coming year. Again, the local sentiment in favor of the snipers prevailed. The liquor commission, consisting of Pershing County’s sheriff and attorney general, found that both establishments were operating in accordance with the law.⁴³

The dispute dragged on. Local opinion was against Rosegold, but in the spring of 1942 the United States Treasury impounded all gold it received from Rabbit Hole when the company claimed that snipers were illegally mining it. The Treasury’s action forced some snipers to seek relief from the county, and many others faced starvation. In November, Judge Hawkins awarded Rosegold quiet title to the placer grounds, rejecting claims of “locator’s rights” made by several snipers. Several high-profile supporters of the snipers became involved, including Senator Pat McCarran, Pershing County District Attorney Sanford A. Bunce, and the editor of the Lovelock Review-Miner, Paul K. Gardner. By lobbying on behalf of the snipers they were able to convince the Treasury to release payments to the snipers for the gold that had been impounded. By this time the legal tangles with Rosegold and prospects of employment in the new wartime economy had induced most snipers to leave Rabbit Hole.⁴⁴

The legacy of the Rabbit Hole Mining District cannot be measured in ounces of gold. Economically, the district’s production figures are easily overshadowed by Nevada’s major mining areas, including the more than one million ounces of gold produced by the nearby Hycroft mine. Rabbit Hole’s most compelling story, however, is its human one. Drawn to this piece of northwestern Nevada desert by the promise of riches, or at least a good day’s

wages, hundreds of out-of-work Americans and their families turned to gold mining as a way out of the poverty they faced during the years of the Great Depression. The labor and ingenuity needed to scratch a living from the dusty gravels would have been exhausting. Relying on each other and whatever they could get their hands on, the snipers and corporate miners were able, at least for a time, to adapt to the district by making do, not as rugged individuals, but within a social and economic system that interacted in direct, and subtle, ways with larger governmental and social forces affecting the nation at large.

NOTES

¹A recent discussion of prehistoric settlement in the Lahontan Basin, which includes the Black Rock Desert and Rabbit Hole, can be found in Kenneth D. Adams *et. al.*, "Late Pleistocene and Early Holocene Lake-Level Fluctuations in the Lahontan Basin, Nevada: Implications for the Distribution of Archaeological Sites," *Geoarchaeology*, 23(5), 608-43. Vivid first-hand accounts of the emigrant experience on the Applegate-Lassen Cut-Off can be found in J. Goldsborough Bruff, *Gold Rush: The Journals, Drawings, and Other Papers of J. Goldsborough Bruff, April 2, 1849-July 20, 1851*, Georgia Willis Read and Ruth Gaines, eds (New York: Columbia University Press, 1949), and Alonzo Delano, *Life on the Plains and Among the Diggings* (Auburn and Buffalo: Miller, Orton & Mulligan, 1854). Archaeology of the emigrant trails is discussed in *Emigrant Trails in the Black Rock Desert: A Study of the Fremont, Applegate-Lassen, and Nobles' Routes in the Winnemucca District*, Technical Report No. 6 (Reno: Bureau of Land Management, 1980).

²Richard White, "It's Your Misfortune and None of My Own": *A History of the American West* (Norman: University of Oklahoma Press, 1991), 463-64.

³Robert C. Horton, "An Outline of the Mining History of Nevada, 1924-1964," in Joseph V. Tingley, Robert C. Horton, and Francis C. Lincoln, *Outline of Nevada Mining History*, Special Publication 15 (Nevada Bureau of Mines and Geology, 1993), 25-36; Bertrand F. Couch and Jay A. Carpenter, *Nevada's Metal and Mineral Production (1859-1940 Inclusive)*, University of Nevada Bulletin 37, no 4 (1 November 1943), 153; Charles Miller, Jr., *The Automobile Gold Rushes and Depression Era Mining* (Moscow: University of Idaho, 1998), 63-80.

⁴Miller, *Automobile Gold Rushes*, 6.

⁵*Ibid.*, 81-83.

⁶William O. Vanderburg, *Placer Mining in Nevada*, Nevada Bureau of Mines and Geology Bulletin 27 (2001), 45-53, 155-56.

⁷"Dry Washers at Rosebud Find Large Nuggets," *Lovelock Review-Miner* (28 June 1934), p. 1.

⁸Doris (Irwin) Venable, who grew up at Rabbit Hole in the 1930s, provided many details of daily life at Rabbit Hole. Doris Venable, Interview with David Valentine and Benjamin Barna (14 April 2006). "Landis Strikes Good Flow of Water at Rabbit Hole Springs" *Lovelock Review-Miner* (22 July 1932), p. 1.

⁹The claims that Landis leased from the Associated Royalty Mining Company are described in Pershing County, *Mining Claims*, Book 4, pp. 365-85, 577-78, and Book 5, pp. 27-28, 85-88. A concise description of the relationships among the partners in the Associated Royalty Mining Company can be found in A. H. Dela Vega's father's funeral notice, "Nevada Resident for 50 Years Dies," *Reno Evening Gazette* (14 September 1936), p. 12.

¹⁰Vanderburg, *Placer Mining in Nevada*, 149.

¹¹Optimism about the supply of water available to Landis can be seen in "Landis Strikes Good Flow of Water," as well as in "Water Developed at Rabbit Hole Springs," *Reno Evening Gazette* (26 July 1932), p. 8.

¹²Detailed descriptions of Landis's operations are given in "Expand Operations at Landis Placer Plant, Rabbit Hole," *Nevada State Journal* (13 February 1933), p. 3. This article also hints at production costs related to inadequate water supplies that appear to have contributed to the financial failure of the venture.

¹³*Ibid.*; Venable, interview by Valentine and Barna, 14 April 2006.

¹⁴"Landis Mining Co. Buys Seventh Truck," *Lovelock Review-Miner* (20 January 1933), p. 1; Pershing County, *Mining Claims*, Book 6, pp. 294-97.

¹⁵"Next Session of Court to Last Several Days," *Lovelock Review-Miner* (17 March 1933), p. 1; "Postpone Mining Case Until Tuesday," *Lovelock Review-Miner* (31 March 1933), p. 1; "Says Snipers of Rabbit Hole Are on Clear Claims," *Lovelock Review-Miner* (30 December 1938), p. 1.

¹⁶"Says Snipers of Rabbit Hole Are on Clear Claims," p. 1. Venable, interview by Valentine and Barna, 14 April 2006.

¹⁷Venable, interview by Valentine and Barna, 14 April 2006.

¹⁸*Ibid.*, Doris Venable, interview by David Valentine, Sean McMurry, and Benjamin Barna, 16 June 2006. United Press, "Prospectors Stake Gold Claims in Nevada," (20 December 1930), describes activities related to discoveries at nearby Scossa. "Sold Their Gold Mine for \$10,000—

And It's Valued at 10 Million!" *Every Week Magazine* (21 August 1937) included a description of sniper life and a photograph of two "husky young women" working a dry washer.

¹⁹Venable, interview by Valentine, McMurry, and Barna, 29 August 2007; Jeane Westin, *Making Do: How Women Survived the '30s* (Chicago: Follet, 1976), xii. Benjamin Barna, "A Material Culture of Making Do: Adapting to the Great Depression in the Rabbithole Mining District, (M.A. thesis, University of Nevada, Reno, 2008).

²⁰"Placer Miners at Rabbit Hole Regulate Themselves," *Lovelock Review-Miner* (2 December 1938), p.1; Donald L. Hardesty, *The Archaeology of Mining and Miners: A View from the Silver State*, Special Publication Series, Number 6 (Pleasant Hill, Calif.: Society for Historical Archaeology, 1988). The unregulated atmosphere among the snipers in the early 1930s is described well in "Dry Washers at Rosebud Find Large Nuggets."

²¹"Rabbit Hole Kangaroo Court Decides Issue," *Lovelock Review-Miner* (3 September 1937), p. 1.

²²"Placer Miners at Rabbit Hole Regulate Themselves."

²³Campitelli appears to have offered his impressions of Rabbit Hole to the Lovelock press on more than one occasion. He also appears on a crew conducting annual work for William Simmons on claims adjacent to the snipers' placer grounds in 1936. "Seventy Doing Placer Mining at Rabbit Hole," *Lovelock Review-Miner* (13 November 1936), p. 1. "Rush of Placer Miners Starts at Rabbit Hole," *Lovelock Review-Miner* (9 April 1937), p. 1.; "Placer Miners at Rabbit Hole Regulate Themselves." He appears on the voter rolls in a Reno precinct, published in the *Nevada State Journal* (21 August 1940), p. 10. In an interview with David Valentine and Benjamin Barna (14 April 2006), Doris Venable recalled a "kangaroo court" voting to ostracize Campitelli.

²⁴Details of Henicksman's shooting and the subsequent trials can be pieced together from a series of articles in the *Lovelock Review-Miner*: "Henicksman Is Shot in Leg by Rabbit Hole Man" (13 January 1939), p. 1; "Disposition of Henicksman Case in Justice's Hands" (20 January 1939), p. 1; "Justice Sends Accused Miners Back to Jail" (3 February 1939), p. 2; "Joe Henicksman Dies Suddenly of Hemorrhage" (25 February 1939), p. 1; "Murder Charged to Rabbit Hole Men in Hearing" (24 March 1939), p. 1. "Plan Williams, Kazange Murder Trial for Tues." (21 April 1939), p. 1; "Dismisses Jury in Henicksman Murder Trial" (2 May 1939), p. 1; "Murder Case Is Given to Jury Thursday" (30 June 1939), p. 1; "Hawkins Sends Convicted Men to State Pen" (14 July 1939), p. 1.

²⁵Henry Meadows, who was De la Vega's brother-in-law, attempted to set the record straight on the legal status of snipers in a letter published in northern Nevada newspapers. "Says Snipers of Rabbit Hole Are on Clear Claims."

²⁶"Rabbit Hole Snippers [sic] Take up New Methods," *Lovelock Review-Miner* (3 September 1939), p. 1; Venable, interview by Valentine and Barna (14 April 2006). A description of one type of muck conveyor is given in J. Michael Poston, "Two Summers in Nevada, Winnemucca 1945, The Rabbit Hole 1946," manuscript on file with the Department of Anthropology, University of Nevada, Reno.

²⁷"Arthur Allen Dies in Rabbit Hole Cave In," *Lovelock Review-Miner* (9 October 1941), p. 1.

²⁸Vanderburg, *Placer Mining in Nevada*, 45-53, 155-56; "Ore-Neva Co. to Start First Units This Weekend," *Lovelock Review-Miner* (14 July 1933), p. 1.

²⁹Vanderburg, *Placer Mining in Nevada*, 151-53.

³⁰Venable, interview by Valentine and Barna, (14 April 2006), describes Bob Chandler's home inside a mine adit.

³¹Irene Paden, *Prairie Schooner Detours* (New York: The MacMillan Company, 1949), 155-56.

³²*Ibid.*, 155.

³³Venable, Interview by Valentine and Barna, 14 April 2006.

³⁴*Ibid.*

³⁵Descriptions of make-do construction techniques at Rabbit Hole can be found in Barna, "Material Culture of Making Do," 57-110; Carolyn L. White, "Interiors: Making Sense of Domestic Space in Depression Era Rabbithole," (Paper presented at the Forty-first Annual Conference on Historical and Underwater Archaeology, Albuquerque, New Mexico, 2008).

³⁶Venable, interview by Valentine and Barna (14 April 2006); Sean McMurry, "A View of the West: Community and Visual Landscape in Depression-Era Rabbithole Springs Mining District, Pershing County, Nevada." (M.A. Thesis, Department of Anthropology, University of Nevada, Reno, 2007).

³⁷John Schneider, *The History of KGO, Oakland, California*, <http://www.olderadio.com/archives/stations/sf/kgo.htm> (1996) (accessed 10 October 2008); *idem*, *The History of KTAB/KSFO, San Francisco, California*, <http://www.olderadio.com/archives/stations/sf/ksfo.htm> (1996), (accessed 10 October 2008); Guy Rocha, "Old Radio Daze In Nevada," *History Myth #23 and #128*, (originally published in *Sierra Sage*, Carson City/Carson Valley, Nevada (December 1997), <http://dmla.clan.lib.nv.us/docs/NSLA/archives/myth/myth23.htm> (2006) (accessed 3 March 2008); United States Department of Commerce, *Radio Service Bulletin No. 142* (Washington, D.C., 1929), p. 7; Henry Rogers, *Nevada Radio History: 1901 to 1930*, <http://www.radioblvd.com/nevradiolist.htm> (2007), (accessed 3 March 2008).

³⁸Barna, "Material Culture of Making Do," 57-110. Venable, interview by Valentine and Barna, 14 April 2006; *idem*., interview by Valentine, McMurry, and Barna, 16 June 2006.

³⁹Venable, interview by Valentine and Barna, 14 April 2006, and Venable, interview by Valentine, McMurry, and Barna, 16 June 2006, describe Wally Irwin's role as a gold buyer while he operated Ben's Club and his store in Sulphur. The county relief program is mentioned by Doris Venable, and also appears in Maureen Johnson, *Geology and Mineral Deposits of Pershing County, Nevada*, Bulletin 89 (Reno: Nevada Bureau of Mines and Geology, 1977), 76-77.

⁴⁰"Lovelock's Wood Pile Drives Hoboes Away," *Lovelock Review-Miner* (25 November 1932), p. 1; "Railroad Donates Ties Used in County Woodlot," *Lovelock Review-Miner* (2 December 1932), p. 1; "City Jail Is Empty," *Lovelock Review-Miner* (30 December 1932), p. 1; "Relief Committee Sees Short Funds," *Lovelock Review-Miner* (13 October 1933), p. 1; "Red Cross Will Give No Relief to Transients," *Lovelock Review-Miner* (30 October 1941), p. 1.

⁴¹Johnson, *Geology and Mineral Deposits*, 76-77. Venable, interview by Valentine and Barna, 14 April 2006; Pershing County, Commissioners' Minutes, Book 2 (1933), p. 422-23.

⁴²Pershing County, Bonds, Leases, Agreements, Book 4 (1940), p. 455; "Would Eject Miners from Rabbit Hole," *Lovelock Review-Miner* (4 December 1941), p. 1; "Placer Workers at Rabbit Hole Facing Trouble," *Nevada State Journal* (23 March 1942), p. 3.

⁴³"Placer Workers At Rabbit Hole Facing Trouble."

⁴⁴*Ibid*; "Snipers Ousted at Rabbit Hole," *Reno Evening Gazette* (7 November 1942), p. 3; "Gold of 'Snipers' Held by Mint Is to be Purchased," *Nevada State Journal* (24 June 1943), p. 3.

*"Brilliant Contingency of Legal Talent
and Mining Experts"*
Tonopah Apex Lawsuit, 1914-1918

ERIC NYSTROM

A common theme in histories of mining towns is the ever-present risk of litigation. The way these stories are popularly told, lawyers are unscrupulous, experts are liars, judges are bought, and juries are either ignorant or the last bastion of rational thinking. Legal actions halt production, honest miners sometimes are deprived of their property, and in the end, so the stories go, everyone loses except the lawyers.

As with most legends, nuggets of historical truth are at the core of these stories. However, the broader focus on courtroom antics tends to suggest that the law only got in the way of miners. Looking at the issue in a slightly different way, however, reveals the omnipresence of the law in mining. Mining was (and has always been) a business. We remember some aspects of this—the discoveries, machinery, and working conditions for example—but American mining operated in a legal context that was just as significant to the business of mining as those other factors.

This article examines one lawsuit, in Tonopah, Nevada, in 1914. Looking at this trial in depth sheds light on the way mining litigation worked and how

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courts reached their conclusions, but also serves as a window into the close-knit world of experts and lawyers that dominated the profession of mining law. As we shall see, the mining-law experts for each side coordinated their side's over-all legal strategy. These experts' plan for winning the trial involved a combination of contributions from different sorts of experts—their specific legal expertise, the legal reinforcements of each company's regular attorneys, the theoretical depth of well-known geologists, and the local knowledge of company engineers. Personal connections played an important role in determining which experts worked together, but on the whole, the members of the elite group of mining-law experts had much in common, and could be quite friendly with each other. The complexity of mining law, the high cost of failure in a trial, and the difficulty of recasting geological knowledge in a legal framework made these independent experts necessary. Appreciating their efforts can be difficult in the abstract, but it is hoped that this look at these experts at work can help clarify their important contributions to the history of mining.¹

In a story familiar to many Nevadans, Jim Butler discovered ore at the future site of Tonopah in 1900. The next year, he returned with friends and began developing his claims in earnest. Tonopah's potential brought not only a huge crowd to the new camp, but also the attention of Eastern capital. Butler and his partners sold the original claims to the Tonopah Mining Company, backed by Philadelphians, and the company commenced mining in January 1902. The Tonopah Mining Company held some of the best claims, but prospectors attracted by Butler's initial discoveries had staked others that also turned into profitable mines. The boom period lasted through about 1905; after that, Tonopah mining became less speculative and more businesslike. The district's period of peak productivity was during about 1908-24. The best years occurred almost in the middle of that period—total mining output exceeded five-hundred thousand tons annually in 1913, 1914, 1915, and 1918. During these years, there were more than half a dozen major mining companies, and many more small ones. Some of them were interrelated, sharing board members, managers, or even mining personnel, but no company completely dominated Tonopah, as was common in other districts. Figure 1 shows the ground controlled by the various companies as of 1915, which even extended directly under the town itself.²

One of these companies was the Jim Butler Tonopah Mining Company, named after the discoverer of the original deposits and formed in 1903 to work sixteen claims southeast of the original discoveries (Figure 1).³ Butler himself was president of the namesake company until 1911, but throughout the period, the Tonopah Belmont firm, controlled by many of the same Philadelphians who took over the original discoveries. From its formation in 1903 until 1910, the Butler was mined in a limited fashion, with low output. The discovery of more valuable deposits underground in 1910 led to the Butler turning its first profit, in 1912.⁴

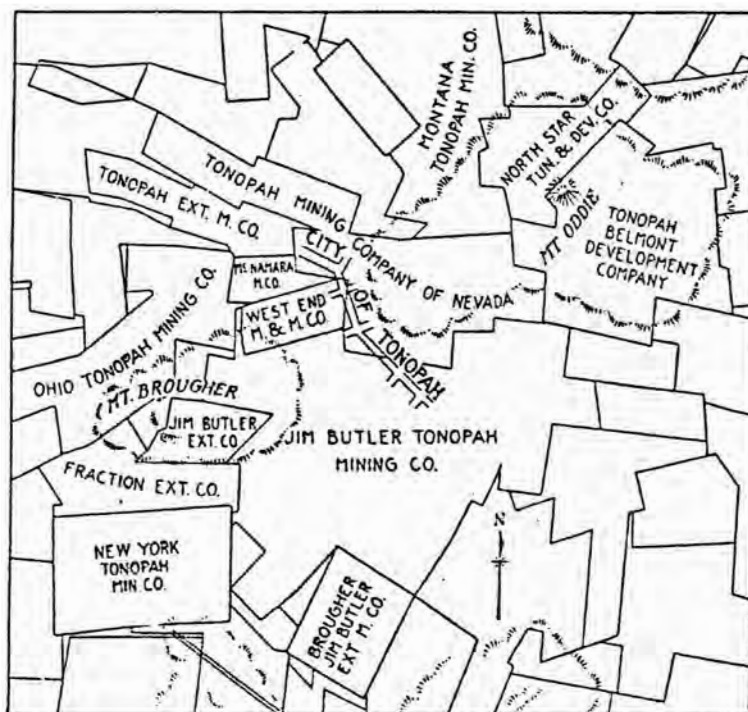


Figure 1. Claim map of Tonopah, Nevada, at the time of the trial. The West End is a small claim in the center-left, and the portions of the Jim Butler ground in dispute are located just to the south. Note the jagged end line of the West End claim. ("Apex Litigation at Tonopah," *Engineering and Mining Journal* 99 (1915): 660)

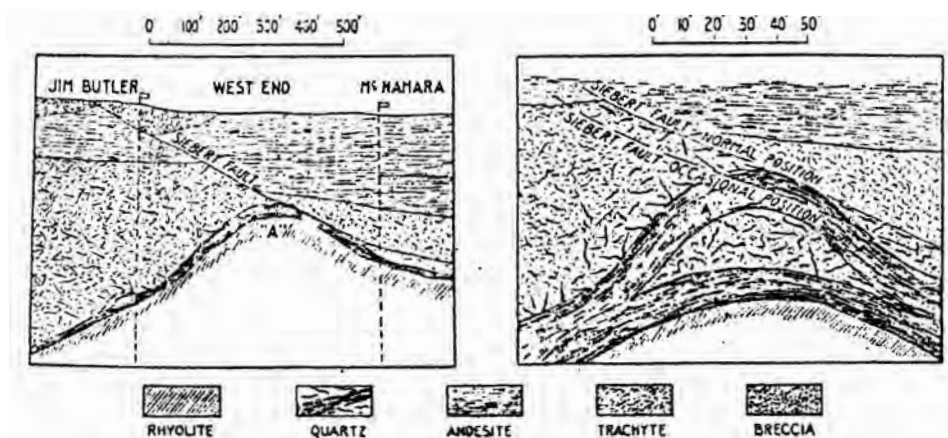


Figure 2. Cross-section of the geology of the disputed vein, showing the anticline shape and the Siebert Fault. ("Apex Litigation at Tonopah," *Engineering and Mining Journal* 99 (1915): 661)

The West End Consolidated Mining Company, formed to work the West End claim, was located in 1901 by several of the original leasers of Butler's initial discoveries (before the beginnings of Philadelphia control). They formed a locally owned company, which was unusual for the area, but a lack of capital restricted production. In 1906, the miners found high-value ore (averaging \$62 per ton), justifying incorporation and a public stock offering to raise working capital. Francis M. "Borax" Smith bought most of the shares and became company president, but the original owners remained involved in managing the mine.⁵ The West End settled a dispute over extralateral rights with the MacNamara, the claim immediately to its north, in 1908. Figure 1 shows the MacNamara north of the West End claim, bordering the Butler holdings to the south, all directly under Tonopah's main streets. By 1914, the West End had earned a solid reputation. The mine shipped ore steadily, and the management won praise for making decisions based on conservative estimates and pushing a forward-looking development strategy.⁶

These two neighboring businesses, the Jim Butler Tonopah Mining Company and the West End Consolidated Mining Company, were the antagonists in the high-stakes 1914 lawsuit that promised ruin for one and prosperity for the other. The fight began that February, when Butler miners broke through into workings made by the West End in Butler ground. The West End mined more than fifty-five thousand tons of ore beyond its side boundary, in Butler territory.⁷ After negotiations to prevent litigation and to equally divide the ground failed,⁸ the two companies prepared to battle it out in court.

The legal basis for the dispute was a branch of mining law known as extralateral rights, which, under certain conditions, permitted miners to follow a vein from their own claim underneath a neighboring one as the vein dipped into the earth. In order to possess this extralateral right, the claim had to include the "apex" of the vein within its surface boundaries, and meet all of the other requirements (such as size, fees, shape) that the law spelled out.⁹ A mining company needed an apex in its claim to have extralateral rights, but what exactly was an apex? The statute did not define the word, and it was not a traditional mining term, so no historical meaning could serve as a guide. Congress apparently had an idealized type of fissure vein in mind in using the term, and in such a case it might have been clear enough what the apex of the vein was, but the geology of mines was rarely so simple. As a result, the courts gradually refined the term "apex" as they decided on lawsuits over extralateral rights where existing precedent was unclear.

West End officials clearly believed they had an apex inside their claim that gave them the right to follow their vein into the Butler, but the vein seemed different from what Congress had in mind. It had a shape more like a handkerchief that someone had pinched in the middle in picking it up off a flat table. Figure 2 shows one vision of the cross section of the vein. Geologically speaking, this inverted U shape is known as an anticline.

The problem for the West End was that earlier courts had ruled, in a series of decisions known as the Leadville Cases, that anticlines were not enough to constitute apexes. The courts concluded that if a blanket vein merely rolled or undulated, it had no true apex, it had no extralateral rights.¹⁰ The West End tried to dodge this precedent by arguing that, despite appearances, its vein was not an anticline, but two separate veins that happened to come together at the top—two veins, two apexes (in the same place), and thus extralateral rights in both directions. During the trial, West End lawyers and experts were careful to use language that reinforced this interpretation. They never spoke of the whole structure as a vein; instead, they talked about the "North dipping vein" and the "South dipping vein;" similarly, the peak was always a "junction" or "the apexes," never "the anticline." The Butler countered that since the vein continued from one branch over the top and down the other side, the vein was clearly an anticline, and thus, by virtue of the precedent in the Leadville Cases, lacked either an apex or extralateral rights. Speaking of the vein as a whole and frequently referring to the "anticline," the Butler team mirrored the West End's effort to use language that supported its interpretation of the law. Both sides knew that while the Leadville precedent would be significant, it was based on very different veins than those in the Tonopah district. The West End hoped the difference was significant enough to prevent the Leadville precedent from applying to this situation, and instead to make its two-vein theory supportable, whereas the Butler believed that the situation was not so different as to invalidate the general point of the Leadville Cases.

The stakes were high. All told, the ore in dispute was valued at about a half million dollars, and on top of that, Nevada law allowed for triple damages in cases of mining trespass. The lawsuit seemed to promise prosperity if won, ruin if lost; the future seemed to hang in the balance—so both companies set out to assemble the best legal talent money could buy.

The two mining companies assembled a "brilliant contingency of legal talent and mining experts" to defend their claims.¹¹ Each side's team consisted of four different types of expert. Directing the over-all strategy were attorneys with specific expertise in mining law and extralateral rights. Assisting them were the normal attorneys for the mining firms, who generally had little specific expertise in mining law, but were more familiar with the company's internal operations and the local context. Both sides hired eminent expert witnesses, generally with national reputations, to testify about geology and engineering practice, and thereby connect the case's specific details with broader scientific theory. Local engineers, whose value in court was their intimate knowledge of the specific mines, rounded out the teams. Together, these four types of expert attempted to present a coordinated vision, where legal arguments and geological facts worked together to make their interpretation more compelling to the judge.

In the Jim Butler-West End trial, the expert mining attorneys were an especially distinguished group. The Butler retained the biggest star of all,

"Judge" Curtis H. Lindley, author of the most famous and important treatise on American mining law to that time.¹² In fact, the third (and ultimately final) edition of his text, widely referred to simply as "*Lindley on Mines*," appeared in January 1914, less than a year before the trial began.¹³ Lindley's father, also a lawyer, moved to California during the gold rush in 1849. Born in 1850 in Marysville, California, then one of the major centers of mining activity on the Mother Lode, Lindley spent most of his teenage years on the Comstock Lode and served as a hoisting engineer before he studied law and began practicing in California. He briefly served as a judge in Amador County, earning him the lifetime sobriquet "Judge," but after leaving office, he turned more specifically to the study of mining law. Few books on mining law had been published when Lindley began his work, and "the few works that had appeared were little more than digests of the statutes and the few cases the courts had then decided. They could hardly be dignified with the title of treatises."¹⁴ Lindley first published his monumental work in 1897, with heavily revised editions in 1903 and 1914.¹⁵ Lindley was apparently "such a stickler for the proprieties that he would never quote from or refer to his own book, and never allowed it to be brought into the court-room, even by his associates, when he was present."¹⁶ Even so, the text became the widely acknowledged authority on American mining law; United States Supreme Court justices even quoted it extensively in relevant opinions.¹⁷ The third edition of *Lindley on Mines* was considered the best of them all, a monumental work to cap a distinguished career. The famous mining geologist Horace V. Winchell, who testified for the West End as an expert opposite Lindley, termed the book "lucid," "unambiguous," and "indispensable" in a September 1914 review.¹⁸ The eminent mining engineer Rossiter W. Raymond, himself an expert on mining law, heaped even more praise on Lindley's "tru[e] magnum opus." In the most widely read journal for mining engineers, Raymond described *Lindley on Mines* as a "magnificent treatise," written with "candor, lucidity, and forceful suggestiveness" and featuring "comprehensive and classic excellence."¹⁹

Lindley also pursued an active courtroom career. He was a trial lawyer in many other famous mining cases, including those in Grass Valley, California, the Bunker Hill and Sullivan cases in Idaho, and others in Utah, in addition to *Butler vs. West End*.²⁰ Heavily involved in professional and civic causes, he was active in the San Francisco Bar Association, and helped organize the California State Bar and served as its first president. A political progressive, Lindley was one of the leaders of a reform movement in San Francisco, played a strong role as lead counsel in the effort to dam the Hetch Hetchy Valley to create a water supply for the city, and served as a director of the Panama-Pacific Exposition of 1915 and as San Francisco park commissioner.²¹ Lindley was a friend of Herbert Hoover; they met when Hoover was engaged to help Lindley prepare for a lawsuit in the Grass Valley, California, district in 1896-97.²² According to William E. Colby, Lindley taught mining law to Hoover

at Stanford, and apparently played an important role in getting Hoover his first mining positions. Later, when Hoover became head of the Food Administration during World War I (which appointed Lindley had helped along by introducing him to friends in Washington), the mining engineer persuaded Lindley to come to Washington to take charge of the agency's legal work.²³ And Lindley was a poet, of sorts: During the Butler-West End trial, he wrote doggerel verse that the local newspaper printed.²⁴

Second in command of the Butler's legal strategy was William E. Colby, Lindley's trusted assistant and a recognized authority on mining law in his own right, including apex litigation. Colby began working for Lindley in 1907, and took over the older lawyer's practice when Lindley died, in 1920. Colby was most famous, later in life, as a longtime officer of the Sierra Club. Colby was the lead counsel for the anti-Hetch Hetchy Dam movement, even though he worked out of the same offices as dam advocate Lindley. (Lindley hoped to keep that quiet, to avoid any sense of impropriety in having both sides represented by the same firm.)²⁵ Colby certainly understood extralateral rights well: His 1916 four-part law-review article on the apex issue, produced after the initial trial in Tonopah but before the United States Supreme Court finally settled the Butler-West End case, was, according to a modern legal scholar, "perhaps the most articulate and certainly the most comprehensive defense of the apex law."²⁶

Heading the West End Consolidated's legal team was the mining lawyer William H. Dickson of Salt Lake City. A New Brunswick native, Dickson spent eight years as a lawyer on the Comstock Lode.²⁷ In 1882, he moved to Salt Lake City, Utah Territory, and was appointed to the United States Attorney post in 1884. As part of the Gentile minority who occupied a majority of the federal territorial offices, Dickson zealously prosecuted Mormon polygamists under the federal Edmunds Act.²⁸ He so enraged the Mormon community that, in 1884, he was the target of glass jars of human waste, lobbed through his window, which broke on the walls and carpet. In 1886, a Mormon leader's son struck him in the face during a personal meeting.²⁹ In 1887, Dickson retired from the United States Attorney post, citing the low salary, and resumed a successful (and lucrative) private law career.³⁰ Dickson developed an excellent reputation in mining law, especially apex suits, and tried many famous cases.³¹ Dickson never gained Lindley's national notoriety, probably because he never published a treatise, but his reputation as a mining lawyer seems to have been high. Like Lindley, Dickson had less than a decade left to live, but continued to work until the end.³² Dickson was familiar with Tonopah, because of his business interests in the camp. He served as a member of the Board of Directors (along with A. C. Ellis) for the Montana-Tonopah Mining Company,³³ and briefly held an interest in some of the camp's earliest claims. Dickson later unsuccessfully defended the Tonopah company formed to work his claims in a series of boundary lawsuits. Ironically, the Jim Butler Tonopah Mining

Company later absorbed at least two of those claims, the Stone Cabin and Wandering Boy.³⁴ In short, Dickson had a long history with Nevada, Tonopah, and mining law.

Working closely with Dickson on the West End Consolidated strategy was the mining lawyer A. C. Ellis, Jr. The son of an early Nevada lawyer and politician, Ellis moved to Salt Lake City in 1892, and entered into a multi-decade legal partnership with Dickson and the elder A. C. Ellis. One of the Ellises had participated with Dickson in his early investments in Tonopah as well.³⁵

The mining lawyers for both sides received substantial assistance from the regular attorneys for the mining firms. The Butler's regular attorney, Hugh H. Brown, long time Tonopah lawyer and one of the state's best-connected lawyers,³⁶ first ventured to Tonopah in 1903, when his San Francisco firm sent him to the desert to help open an office. Brown may have almost immediately encountered Dickson, the West End's top lawyer, in the courtroom in 1903, when Brown's firm defended the Tonopah Mining Company against the elder lawyer's earlier venture, the Tonopah and Salt Lake Mining Company.³⁷ Brown did legal work for many of the Tonopah mining firms, especially the Tonopah Mining Company and related companies such as the Tonopah-Belmont. Rounding out the Butler legal team was J. H. Evans, Brown's Tonopah partner.³⁸

The other West End lawyers collectively represented a wealth of experience and connections from across the West. Harry Hunt Atkinson moved to Tonopah in 1906, just as he began his career. Besides eating his meals at the private Nyco Club, which listed John Chandler, the Superintendent of MacNamara and later, during the trial, the West End, as a member, Atkinson also knew Chris Zabriskie, one of the West End's principal owners, "very well," and the lawyer's father-in-law, Clyde Jackson, was an early manager of the MacNamara. Elected justice of the peace in 1908, Atkinson served two terms, until 1912, and began a two-term stint as Nye County district attorney in 1917. Atkinson's office was in the Nyco building, where his friend Chandler shared space with Mark R. Averill, who then was elected district judge and stood ready to rule on the case between the two mining companies.³⁹

Horatio Alling lived in California when the trial began, but had lived in Tonopah from 1906 to 1910. He had a reputation as an excellent trial lawyer and continued to work in courts throughout Nevada. "Judge" S. S. Downer made his legal reputation in Boulder, Colorado, serving as county judge, district attorney, and district judge for nearly three decades before moving to Reno in 1904 and joining one of the largest firms there.⁴⁰ The West End also used the services of Peck, Bunker, and Cole, of Oakland and San Francisco, probably its regular legal firm (The West End's corporate headquarters were in Oakland.) James F. Peck, the senior partner, was well known in the Golden State and earned a specialty reputation with his involvement in water rights controversies in the central valleys. Not only had the junior partner Walter D. Cole lived in Tonopah from 1906 to 1910, but the Nevada Supreme Court appointed him to the commission that compiled the state's laws.⁴¹

The two companies engaged top experts in geology and mining as witnesses. The Butler's top geological witness, John Wellington Finch, had served as Colorado state mineralogist and as a mining engineer in Cripple Creek.⁴² Finch gained fame in central Nevada for managing George Wingfield's Goldfield Consolidated Mining Company, of which Finch's expert advice was credited for organizing. He also had a reputation as an excellent witness in mining cases, handling long cross-examinations with aplomb and bearing "the poise born of absolute knowledge of facts."⁴³ Finch's post-trial career further enhanced his image. From 1930 to 1934, he served as dean of the University of Idaho College of Mines, then was tapped to head the United States Bureau of Mines under Secretary of the Interior Harold Ickes, from 1934 to 1940 (this despite an initial flap over Finch being a Republican, seemingly out of place in Franklin Roosevelt's New Deal administration, although Ickes was, too).⁴⁴

Another Butler expert, Fred Searls, Jr., was also affiliated with Wingfield's Goldfield Consolidated, as a geologist on the payroll for three years and a consulting geologist afterward. A 1909 graduate of the University of California who studied under Andrew Lawson, Searls was just starting his geological consulting career. In this case, Searls's study of ore deposits in tertiary volcanic rocks made his testimony valuable to the Butler company. On the stand, he mentioned his work for the "Gunn-Thompson people" and other consulting engagements. Almost a decade later, in 1925, Searls joined the firm newly formed by Gunn-Thompson people, Newmont Mining Company, and became famous as a top executive with industry leader Newmont for several decades. That Searls would serve as a good witness in mining law cases was perhaps no surprise, given his family history. His grandfather, Niles Searls, his father, Fred Searls, and two of his brothers, Carroll and Robert M. Searls, all practiced mining law in California. Robert Searls, the younger brother of Fred Searls, Jr., worked in Lindley's office as a junior attorney, and appeared in the acknowledgments to the 1914 edition of *Lindley on Mines*.⁴⁵

The Butler also retained Andrew C. Lawson, then acting dean of the school of mines and professor of geology at the University of California, as an expert witness. One of the first Ph.D. degree recipients in geology from the Johns Hopkins University, in 1888, Lawson was invited to Berkeley as a professor by Joseph LeConte. Lawson taught there until his retirement, in 1928. He chaired a committee of geologists put together immediately after the 1906 San Francisco earthquake; their report was a landmark in the understanding of seismic activity.⁴⁶ Lawson's studies of ore deposition made him a valuable witness in apex cases. He worked on many of the cases that Lindley tried, including the earlier defense of the MacNamara against the West End.⁴⁷

The mining and geology experts who testified for the West End were no less distinguished. Their primary geological witness was Horace V. Winchell, co-founder and president of the Geological Society of America (and son of a famous geologist). Winchell co-authored the first scientific analysis of the

Mesabi Iron Range, and was an important expert in a variety of other mining legislation. After Anaconda Copper hired him in 1898 to set up its geological department to prepare for apex litigation, he helped develop a system of tracing geological sections onto semi-transparent vellum to see several at once and visualize the over-all relations. Anaconda won most of its famous apex suits based largely on testimony by Winchell and the geologists who worked for him. He started his own consulting business in 1908, and testified for clients all over the world, despite his own well-documented misgivings about the wisdom of the apex law.⁴⁸

The West End also used testimony from Walter H. Wiley, a well-respected mining engineer who had been one of the first graduates of the Colorado School of Mines, in 1883. By the time the trial began, Wiley had had a thirty-five-year career in mine examination and litigation worldwide.⁴⁹ The West End also retained the forty-six-year-old American-born Edmund Juessen, who learned engineering at Freiberg and received a doctorate of natural sciences at Zurich in 1890. Like many engineers of his era, he worked several mines in the West early in his career, including two years as manager of the Pittsburg Silver Peak Gold Mining Company, at Blair, Nevada, near Tonopah. After resigning in 1911, Juessen moved to the Bay Area and worked as a consulting mining engineer.⁵⁰

Both companies rounded out their team of experts with locals who knew the disputed spaces intimately. During the trial individual miners were called to testify briefly, but only one man on each side testified at length to local conditions. The Butler team hired Fred Siebert, a longtime resident mining engineer of Tonopah, for whom one of the major faults in the district had been named. Siebert had held many technical positions in various Tonopah mines, including a stint as manager for the Tonopah and Salt Lake property in which Dickson was a major investor.⁵¹

The West End's local expert, John W. Chandler, had long experience with disputes over Tonopah veins. Thirty-eight years old when he took the stand in 1914, Chandler had graduated in 1901 from the Colorado School of Mines, and worked in Tonopah from about 1904 to 1910,⁵² mainly as superintendent of the MacNamara, which adjoined the West End to the north. In 1908, the two companies discovered that each had an apex claim on a vein that dipped shallowly into the other's property. (The "north dipping vein" in the West End's case against the Butler was the vein that dipped northerly into the MacNamara.) Both sides did extensive work to prepare for a trial, but a late compromise averted litigation. The deal, which the historian Jay Carpenter deemed more favorable to the MacNamara, forced the two companies to respect their mutual side line as a vertical boundary. The next year, in 1909, Chandler's MacNamara followed the same north dipping vein northward out of its claim into the Tonopah Extension's ground. The MacNamara and Tonopah Extension prepared to fight in court, but, again, the MacNamara secured a compromise: giving up its apex right in exchange for the Tonopah

Extension yielding its right to triple damages (permitted under Nevada law for mining trespass) on the ore the MacNamara had already mined, and both sides agreed to respect the vertical boundary.⁵³

In the 1908 case against the West End, Chandler worked closely with Lindley and Lawson to prepare the MacNamara's defense, but now the manager was on the other side. In his earlier work with Lindley, Chandler held that there was indeed one vein and it was an anticline, but in the context of his work for the West End, he had to espouse the two-vein theory. He justified his reversal on the grounds that additional development work proved his earlier statements wrong, but West End attorneys tried to preempt criticism by encouraging Chandler to say he had been coached to see a single vein in the earlier case. Lindley dismissed this in a huff by pointing out, "Certainly he knows as everybody knows that [the single vein] has always been my position and I have not changed it either."⁵⁴ Chandler returned to the district and became West End superintendent on October 1, 1914, after preparations for the Butler trial were well under way.⁵⁵

Despite the large sums of money and legal reputations at stake, the trial was conducted, observers said, with a remarkable amount of friendliness. The local newspaper called the trial "one of the happiest gatherings of men representing millions ... from the amenities displayed by counsel it would not strike the casual visitor that enormous sums were staked on the result."⁵⁶ The historian Clark Spence suggested that friendliness between opposing parties in mining litigation may not have been unusual, at least among expert witnesses, but the Jim Butler-West End proceedings seemed particularly gracious.⁵⁷ The lead counsel probably set the tone, likely encouraged by the mining law fraternity's relatively small size. Lindley and Dickson had squared off in at least one apex trial earlier in their careers—Lindley won⁵⁸—and even before the United States Supreme Court decided the final appeal in *Jim Butler v. West End*, Dickson and Lindley had worked together on a complex mining case.⁵⁹ The closeness of the professionals who had worked and lived in a remote boomtown may also have contributed to the amity, at least among the current and former Tonopahns on both sides. One evening, Lindley even hosted a party underground in the mine.⁶⁰

At the trial's conclusion, the Nye County Bar Association threw a banquet to honor the visitors, with newly elected president H. R. Cooke as toastmaster. Live music entertained the guests, including all of the lawyers for both sides as well as Judge Averill, who was seated at the place of honor at the head of the table. Perhaps not unexpected, the speeches began even before the meal ended. The topic of bar associations formed a common but unsurprising theme that stressed the need for lawyers to cooperate for the good of their common profession. Lindley gave an "extended address" about the value of bar associations and "elevating the standard of the profession." He concluded with a story about his "first case," tried in the Reveille district of Nevada: "No verdict was reached, because of lack of foresight in selecting a referee, as well as to the influences exerted by the contents of the saloon in which the case was tried."⁶¹ Lauded for building the Nevada

Bar's membership, Brown replied by recounting the most recent American Bar Association meeting's proceedings and describing the thrill of being admitted to practice before the United States Supreme Court. After other speeches in a similar vein, Lindley was called upon to read the third rendition of the doggerel poetry he had written about the proceedings. The banquet concluded with Averill's thanks to the Nye County Bar for their support of him, and to the assembled attorneys for an interesting and well-mannered trial. The legal proceedings had concluded, the newspapers reported, without Averill being asked to rule on a single objection.⁶²

The conviviality was clearly a product of friendship in a relatively small circle of mining attorneys and experts. Each side's lawyers and experts had worked with each other on multiple occasions, and in many cases, professional and personal connections led to semi-regular teams for this kind of work. Many of the experts and lawyers from outside Nevada had participated in earlier lawsuits in the area. Besides Dickson's early experience with Tonopah, Lindley (and probably other members of his team, such as Lawson and Lester C. Uren) worked for the MacNamara (with John W. Chandler as superintendent) during its apex troubles in 1908 and 1909. An apex suit in 1906 in Goldfield between the Combination Company and the Mohawk Mine featured many of the same experts as the later Butler case, including Finch and Winchell.⁶³

The backgrounds of many of the witnesses and lawyers for the Butler suggest the importance of several sets of personal connections. There was clearly a northern California crowd, perhaps centered on the University of California, Berkeley: Lindley had been associated with the school; Colby taught mining law at the law school from 1911 to 1937,⁶⁴ Lawson taught there, and Searls graduated from the geology program after working with Lawson. Searls had another, more familial, connection with Lindley: A junior attorney who worked for Lindley's practice (though not on the Jim Butler case) was Robert M. Searls, the expert geologist's younger brother.⁶⁵ These informal connections among experts sometimes connected to other networks of relationships, such as the Nevada establishment politics of George Wingfield, who made his fortune with the Goldfield Consolidated and parlayed his wealth and connections into an informal, but very real, role as a political kingmaker and bipartisan power broker in Nevada. Hugh Brown was closely associated with the Wingfield machine, as were several of Brown's friends, such as Tasker Oddie (governor and United States Senator, and one of Tonopah's founders). Oddie was one of the part owners of the Tonopah Belmont, which also controlled and directed the Butler. Lindley may have represented Wingfield; Colby later remembered that he had done legal work for "some of the Goldfield interests."⁶⁶ Siebert and Finch both provided Wingfield with technical expertise. The presence of so many Goldfield Consolidated experts also testified to the Butler side's alliance with the Wingfield interests.⁶⁷ In addition, many of the Butler's experts, including Lindley, Colby, Lawson, and Uren, had worked together before, and probably formed an informal regular team for mining litigation.

These informal partnerships could be fluid, as even the opponents in this trial worked together occasionally. Searls worked with Winchell against Lindley and Colby in the "Big Jim" case in Arizona in 1920.⁶⁸ The most striking example is in *Silver King Coalition Mines Co. v. Conkling Mining Co.* (1921), in which Lindley and Dickson (along with A. C. Ellis) worked for the same side in the only United States Supreme Court case ever to cite the *Butler* case as precedent. The point of law supported by the Tonopah case led directly to Lindley and Dickson earning the victory.⁶⁹

This was the group of lawyers and experts who converged on Tonopah for the trial between the Jim Butler and the West End. The trial began on Monday, December 7, 1914, and the court began taking testimony the following day. The lawyers and experts addressed themselves only to Judge Mark R. Averill, elected to his seat in the Fifth District of Nevada in 1908. Averill was familiar with at least some of these experts and lawyers, and they with him, as Averill had once been among them on the other side of the courtroom. A native Nevadan, born and reared in Virginia City, Averill received at least a little formal education in mining before serving fifteen years as a public school administrator. Averill's legal career began in Tonopah in 1903. He served closely with Lindley and Chandler as part of the legal team for the MacNamera as it successfully fought off apex threats from the West End and the Tonopah Extension.⁷⁰ Despite the cozy connections between Averill and some of the participants on both sides, the Butler and the West End agreed to avoid the additional complexity, uncertainty, and expense of a jury trial, and have Averill pass judgment alone.⁷¹

Neither side spared any expense to make its story more convincing to the judge. Each of them created mine maps, geological diagrams, and three-dimensional models to help make its case more convincingly. The Butler models and maps were a hodgepodge of colors and scales, each calculated to best portray a certain feature or phenomenon on its own. The West End's visual representations reflected a more encompassing, coherent strategy. The West End used a large "skeleton model" of the underground mine, seen in Figures 3 and 4, as a "key" to connect its horizontal maps and vertical sections together into a unified whole. Features on the West End maps were represented by the same colors as on the company's model, with all created to the same vertical and horizontal scale. Together, the coherence, unity, and technical sophistication of the West End's visual representations made a powerful statement about the state of the underground.

The West End's models and maps, however, were not merely "truthful," neutral pictures. The model, referred to throughout the trial as if it were evidence, a simple proof of facts, actually embodied the West End's arguments about the disputed vein's geology. The choice of paint colors made the most powerful arguments. Though the rock in the vein (or veins) was essentially identical, the West End painted the South Vein a bright red on the model, and the North Vein a vivid yellow. This is particularly noticeable when the two veins come together. One glance at the model makes it "obvious" that there are two veins! The arbitrary color choice

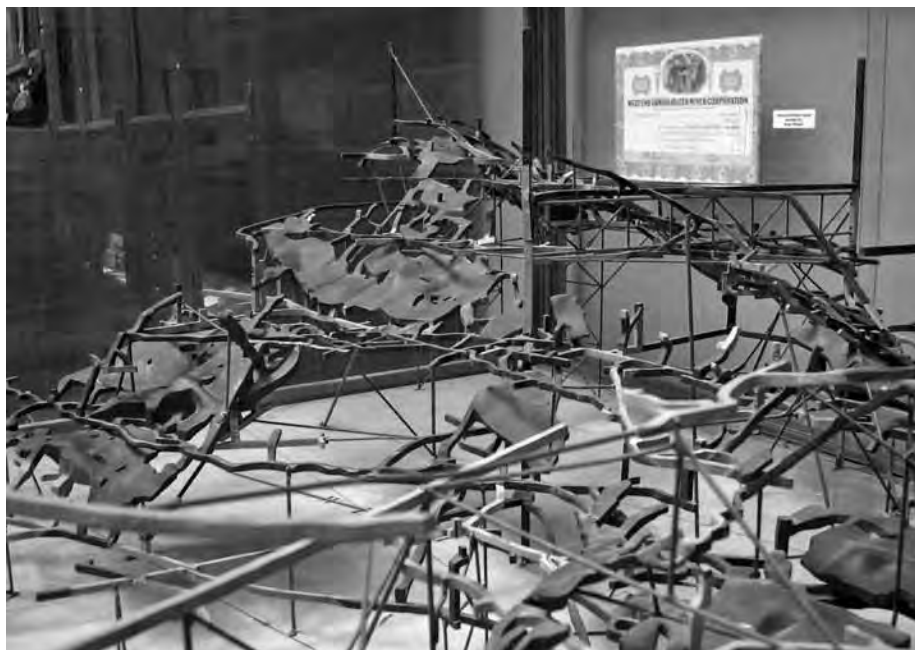


Figure 3 & 4. Different views of the West End Consolidated Skeleton Model (1914).
Photographs by Eric Nystrom. (*W.M. Keck Museum, Mackay School of Mines, University of Nevada, Reno*)

is made more clear by the decision to paint the Fraction Vein, a third vein or branch of no direct consequence in the suit, the same red as the South Vein. The West End team also used colors to emphasize arguments about geological distinctions. For example, on the model the trachyte rock was colored purple, and the andesite, which formed part of the cap rock, a light green.⁷² However, the two rocks that the widely different colors represented actually looked virtually identical to the naked eye—the distinction was justified only on the basis of slight differences visible in carefully prepared slides under the microscope. Geological experts who studied the district disagreed on even the presence of all of the rocks, much less their proper names.⁷³ Yet the West End model made a stark distinction between two very similar rocks with uncertain origins, because such a distinction supported their theory of the formation of the ore, which in turn supported their two-vein distinction for legal purposes. The rock from the veins, so clearly distinguished as red and yellow on the model, was identical-looking quartz. Even the West End's experts admitted the impossibility of telling apart samples from the two veins if they had been removed from the mine; the only difference was structural, in the direction in which they were oriented in the ground.⁷⁴ The West End's two-dimensional maps and geological sections, which conformed to the same scale, numbering, and color scheme, provided a unified and consistent chromatic argument for the truth of the West End's geological assertions.⁷⁵

The testimony concluded on December 22, 1914. During March 8-11, 1915, the lawyers orally argued the case before the judge, and on April 30, 1915, Averill issued his verdict. Averill's decision in the case, and his reasoning behind it, came as a bit of a shock to those who had been following the proceedings. The Butler had made two sorts of arguments. They posited several assertions which, had any been found to be true, would have made the West End's mining claim invalid, preventing the exercise of extralateral rights. The Butler also argued that the vein took the form of an anticline, which had no apex, and therefore could not be followed extralaterally. None of the Butler's objections to the validity of the West End claim convinced the judge. On the two veins or anticline issue, however, Averill surprised everyone. He agreed with the Butler that it was indeed a single vein, in the form of an anticline.⁷⁶ Averill noted, however, that the original mining law was worded in such a way as to imply that every vein had an apex. If that were true, Averill decided, then the top of the anticline was in fact the vein's apex, since it could be nowhere else; therefore the Leadville Cases had no relevance as precedent because the veins substantially differed. If the anticline was in fact the apex, and that anticline-apex was inside the West End's claim, reasoned the judge, the West End was entitled to extralateral rights in both directions out the sidelines of its claim, including into the Butler's territory.⁷⁷ The Butler appealed the decision to the Nevada Supreme Court and eventually to the United States Supreme Court, but lost both times when the upper courts declared Averill's interpretation legally justifiable.⁷⁸

The outcome of the trial meant ruin for the Butler and prosperity for the West End. The stock of both companies had increased in value during the suit, because the West End was allowed to continue to mine and mill the ore.⁷⁹ All of the profits from the ore were placed in an escrow account, which exceeded \$400,000 by the time the last appeal was finished. This figure is profit from the ore only, and does not include the triple damages at stake. When the Butler lost the suit, the West End gained control of the only productive parts of the Butler holdings. The company was reorganized to pay down some of the debt of the Tonopah Belmont as well. Lacking proven reserves or the capital to conduct a full-scale exploration for more ore, the company leased remaining pockets of the Butler mine to small miners for more than a decade, but income from this source was minuscule, and the company never regained anything like its pre-trial prosperity. In 1938, the Tonopah Mining Company bought control of the Butler for less than \$3,000 and conducted some exploratory drilling, but found nothing worthwhile, though leasers occasionally shipped out ore as late as 1947.⁸⁰

The trial had a significantly better outcome for the West End Consolidated Mining Company, as might be expected. The company made significant profits in the years during and immediately after the trial (except for 1919, when a large strike hurt production at all Tonopah mines). Prosperity led to investments in mines outside of Tonopah, which proved to be a drain on the company as profits from the West End's Tonopah property financed the costly experiments elsewhere. Even with the baggage of failing mines, the West End continued to make profits, though on a diminishing scale, into the mid 1920s, largely on the strength of its Tonopah output. (Radical drops in the price of silver in 1923 also significantly affected the profitability of the West End and other Tonopah operations.)⁸¹ The trial itself was expensive—it cost the company almost \$115,000—though the victory put the West End firmly in the black. The company spent \$79,469 on trial preparations such as development work and model making, and lawyers' fees for the trial amounted to an additional \$35,000.⁸²

The little cabal of mining litigation experts was doubtlessly the least affected by the outcome. For Lindley and Dickson, the distinguished old lawyers, the decision came in the twilight of their careers, for neither would live a decade more. Nor would Winchell, the geologist, who was in the prime of his career when he died, in 1923. Younger lawyers and experts, including Finch, Searls, and Colby, had long careers and significant accolades in their futures. Some of the locals, especially Brown, Atkinson, and Judge Averill himself, continued their careers in Nevada and tackled questions of mining law only infrequently thereafter.

The Tonopah public seemed relieved to have the case over. Mining towns had developed a strong aversion to lawsuits over claims and to those legal and geological experts who were part of the process. Apex litigation, in particular,

earned a reputation as being the preferred tool of "courtroom miners" and speculators seeking to wrest control of valuable ore bodies from honest miners and productive companies.⁸³ Lawsuits tied up valuable mines, left miners out of work, and frightened investors wary of risking capital on properties with title in doubt. Tonopah newspapers usually worked diligently to squash rumors of impending litigation, and played up the importance of any negotiations that might avoid a lawsuit.⁸⁴ Many mining men (and newspaper editors) held up extralateral rights as the biggest problem with a deeply flawed national mining law, and railed against it whenever possible as wasteful and litigation-prone.⁸⁵ Some anticipated the day when the entire arcane system would collapse of its own absurdity, and be replaced with a more workable and less wasteful procedure.⁸⁶

The *Tonopah Daily Bonanza's* editor, W. W. Booth, clearly had this eventual legal revolution in mind when he analyzed the outcome of the case:

This decision will clarify problems existing not only in Tonopah, but throughout the United States and in other countries so unfortunate as to possess mining laws similar to our own. Undoubtedly it will result in the settlement of many cases that would otherwise have resulted in costly litigation and will likewise exercise a powerful influence in bringing about a change in our mining laws, which will make them litigation-proof.⁸⁷

Other denizens of Tonopah may have been less clear on the outcome's meaning. In a satirical article published about three weeks after Averill announced his verdict, "The Waugh Kid" attempted to understand the meaning of the momentous case. The Kid read the verdict aloud, while his companion, "Silver Bow Bill," explained it. "I'm glad now I understand it, because I know that everybody else does (with the possible exception of the lawyers) and it is not pleasant to be ignorant," wrote the Kid. Bill considered the decision so easy to understand, in fact, that "he'd bet a pot of beans agin' a gump stew that one of his burros could sabe it." The only problem with Bill's explanation was a bit about "haloes," which had been an important part of the geological testimony concerning the asserted apexes. "Looking as wise as a mine rat," Bill told the Kid that a halo was the type of fence used to keep coyotes away from watering holes on the cattle range. "Bill may have been right," reported the Kid, "but I was not satisfied," so he proceeded to ask local citizens for the definition. Each of them dissembled about the true meaning of the term:

The next fellow I met was Jimmie Blair of the West End company. "I don't know just what that word means. I noticed it when I read the decision, but could not tell just what His Honor meant by it. Better see some of those lawyers. They can probably tell you." "Lawyers!" I exclaimed, "why, they do not even understand the decision, much less anything about 'haloes' and 'sub-parallel fissures.' Your suggestion is sub-obvious, Jimmie."

Finally, the Waugh Kid encountered the local professor of mining, who explained it to him. But the Waugh Kid didn't let the readers in on the joke: "I was surprised to learn that I had known what a halo was for years and years. Any miner knows what a halo is, so why take time to explain so simple a word in a great mining community like this?"⁸⁸

The Tonopah locals were not the only people to poke fun at the trial. Lindley, the lawyer for the Jim Butler, wrote doggerel poetry during the proceedings, and his reading of his third and final effort at the Nye County Bar banquet was reprinted in the newspaper for everyone to enjoy. His last poem covered the entire trial, noting the distinguished lawyers and experts by name:

So, to settle their rights and stop any fights
 And possible dangerous mixin',
 They saved all their dimes and mortgaged their mines
 And hired both Lindley and Dickson.
 Then the experts arrived and soon contrived
 By models and colored designs
 To create the impression by technic expression
 They knew all there was about mines.
 And Winchell asserted and wouldn't be diverted,
 His yellow, red veins were a doom,
 For Wiley, persistent, and not inconsistent,
 Had painted them so with a broom.
 The question of fault came next to a halt
 The "Siebert" came nearly croakin',
 When Juessen explained and softly declaimed
 He called it that only when jokin'.
 Lawson and Finch maintained 'twas a cinch,
 As plain as the nose on your face,
 'Twas an anticline bold—a geological fold,
 Of two veins there was never a trace.
 And Siebert and Searles followed twists, turns and curls,
 And traced every crack to its lair.
 Till the court in his weariness, just from sheer dreariness,
 Fell fast asleep in his chair.⁸⁹

In the end, the Jim Butler-West End apex case is perhaps most notable not for the precedent it set, but for the experts involved in the trial and the view it provides into the close-knit world of American mining law just after the turn of the twentieth century. Mining was a business, and it operated in a legal context that affected operations just as significantly as traditional questions of ore and labor. Mining companies hired legal experts to try to gain the upper hand against their competitors, defend themselves against trespass, and coordinate

the over-all presentation of the company's side as effectively as possible in lawsuits. These expert attorneys used models and maps to illustrate testimony, and hired world-famous geological experts to explain their positions. Mining firms were willing to pay handsomely for these services, as they would pay for a new milling process or piece of mining machinery, because operating effectively in the realm of mining law was an important, if sometimes under-appreciated, part of managing the business of mining.

NOTES

¹Mining law has been receiving increasing attention from historians. Gordon Morris Bakken, *The Mining Law of 1872: Past, Politics, and Prospects* (Albuquerque: University of New Mexico Press, 2008), is a well-known legal historian's recent take on the law. Charles W. Miller Jr., *Stake Your Claim! The Tale of America's Enduring Mining Laws* (Tucson: Westernlore Press, 1991), sees the survival of the mining laws as proof of the validity of the frontier thesis. William T. Parry, *All Veins, Lodes, and Ledges throughout Their Entire Depth: Geology and the Apex Law in Utah Mines* (Salt Lake City: University of Utah Press, 2004), is a well-executed recent study of extralateral rights that mainly focuses on Utah cases. For the Comstock Lode, where the courts worked out many of the early disputes about extralateral rights, see Bruce Alverson, "The Limits of Power: Comstock Litigation, 1859-1864," *Nevada Historical Society Quarterly*, 43:1 (Spring 2000); 74-99. John D. Leshy, *The Mining Law: A Study in Perpetual Motion* (Washington, D.C.: Resources for the Future, Inc., 1987), argues that the law is outdated and should be reformed. For a trans-national perspective, see Barry Barton, "The History of Mining Law in the U.S., Canada, New Zealand and Australia, and the Right of Free Entry," in *International and Comparative Mineral Law and Policy*, Elizabeth Bastida, Thomas Wälde, and Janeth Warden-Fernández, eds. (The Hague: Kluwer Law International, 2005), 643-60.

²See Russell R. Elliott, *Nevada's Twentieth-Century Mining Boom: Tonopah, Goldfield, Ely* (Reno: University of Nevada Press, 1988), Robert D. McCracken, *A History of Tonopah, Nevada* (Tonopah: Nye County Press, 1990); Jay A. Carpenter, Russell Richard Elliott, and Byrd Fanita Wall Sawyer, *The History of Fifty Years of Mining at Tonopah, 1900-1950*, University of Nevada Bulletin, vol. 47, no. 1, Geology and Mining Series, no. 51 (Reno: Nevada Bureau of Mines and Geology, 1953), 55-58, 130-35. Production statistics are on p. 149.

³Carpenter, Elliott, and Sawyer, *History of Fifty Years of Mining*, 52.

⁴*Ibid.*, 52, 66, 96.

⁵*Ibid.*, 52-53. Smith was old friends with some of the original locators, who had worked with him at his first borax operation, near Candelaria, Nevada, in the 1880s. See Hugh A. Shamberger, *The Story of Candelaria and Its Neighbors: Columbus, Metallic City, Belleville, Marietta, Sodaville, and Coaldale, Esmeralda and Mineral Counties, Nevada* (Carson City: Nevada Historical Press, 1978), 135-38.

⁶Carpenter, Elliott, and Sawyer, *History of Fifty Years of Mining*, 66-67.

⁷"Jim Butler Company Commences Suit against West End Con," *Tonopah Miner* (11 April 1914). The West End disputed the charges, even to the extent of disputing the tonnage and value of ore mined. The West End claimed, before the trial, that it had mined only 23,341 tons of ore with an "aggregate net value" of \$204,300. "West End Stands Pat on Claim of Clear Cut Apex," *Tonopah Daily Bonanza* (7 July 1914).

⁸"West End Officers in Conference in New York," *Tonopah Daily Bonanza* (3 April 1914); "Counter Proposition of Butler Reported by New York Message," *Tonopah Daily Bonanza* (4 April 1914); "West End Stands Pat."

⁹The 1872 mining law gave claimants "all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface-lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of said surface locations." See An Act to Promote the Development of the Mining Resources of the United States, U.S. Statutes at Large 17, 91-96, quote on p. 91-92.

¹⁰The two most important cases were *Iron Silver Mining Co. v. Cheesman* (1886), 116 U.S. 529, 6 S. Ct. 481, 29 L. Ed. 712; and *Iron Silver Mining Co. v. Murphy et al.* (1880), 3 F. 368. See also Rossiter W. Raymond, "The Law of the Apex," *Transactions of the American Institute of Mining Engineers*, 12 (1884), 387-444.

¹¹"Jim Butler-West End Trial Concluded with Dispatch, Poetry, Banquet, and No Ill Feeling," *Tonopah Daily Bonanza*, (22 December 1914). For more details on most of the experts and lawyers, see "Grand Galaxy of Talent in the Butler-West End Suit," *Tonopah Daily Bonanza*, (17 December 1914).

¹²William E. Colby, "Curtis Holbrook Lindley," *California Law Review*, 9 (1921), 87-99.

¹³Curtis H. Lindley, *A Treatise on the American Law Relating to Mines and Mineral Lands within the Public Land, States and Territories and Governing the Acquisition and Enjoyment of Mining Rights*

in *Lands of the Public Domain*, 3d ed. (San Francisco: Bancroft-Whitney Company, 1914). Also see Lindley's 1913 article on a prominent part of the Butler-West End case: Curtis H. Lindley, "A Problem in Extralateral Rights on Secondary Veins," *California Law Review*, 1 (1913), 427-38.

¹⁴Colby, "Curtis Holbrook Lindley," 91. Colby specifies these early works as: Yale (1869), Copp's "U.S. Mineral Lands," Morrison's "Mining Rights," Weeks on Mineral Lands in 1877 and 1880, Wade's "American Mining Laws" (1889), and Sickel's "Mining Laws and Decisions" (1881).

¹⁵Curtis H. Lindley, *A Treatise on the American Law Relating to Mines and Mineral Lands within the Public Land, States, and Territories and Governing the Acquisition and Enjoyment of Mining Rights in Lands of the Public Domain*, 1st ed. (San Francisco: Bancroft-Whitney Company, 1897); *idem*, *A Treatise on the American Law Relating to Mines and Mineral Lands within the Public Land, States, and Territories and Governing the Acquisition and Enjoyment of Mining Rights in Lands of the Public Domain*, 2d ed. (San Francisco: Bancroft-Whitney Company, 1903).

¹⁶Colby, "Curtis Holbrook Lindley," 92.

¹⁷A simple search of any modern legal documentation service such as Westlaw or Lexis-Nexis turns up more than a dozen opinions that explicitly cited "Lindley on Mines," including some very significant trials. See *Del Monte Min. and Mill. Co. v. Last Chance Min. and Mill. Co.*, 171 U.S. 55 (1898); *Clipper Min. Co. v. Eli Min. and Land Co.*, 194 U.S. 220 (1904); *St. Louis Min. and Mill. Co., of Montana v. Montana Min. Co.*, 194 U.S. 235 (1904); *Creede and C. C. Min. and Mill. Co. v. Uinta Tunnel Min. and Transp.*, 196 U.S. 337 (1905); *Chrisman v. Miller*, 197 U.S. 313 (1905); *Brown v. Gurney*, 201 U.S. 184 (1906); *Lawson v. U.S. Min. Co.*, 207 U.S. 1 (1907); *Yosemite Gold Min. and Mill Co. v. Emerson*, 208 U.S. 25 (1908); *Stewart Mining Co. v. Ontario Mining Co.*, 237 U.S. 350 (1915); *Hopkins v. Walker*, 244 U.S. 486 (1917); and *U.S. v. Sweet*, 245 U.S. 563 (1918).

¹⁸Horace V. Winchell, "Review of 'Lindley on Mines,'" *Economic Geology*, 9:6 (September 1914): 598-602.

¹⁹Rossiter W. Raymond, "Review of 'A Treatise on the American Law Relating to Mines and Mineral Lands, Etc.'," *Engineering and Mining Journal*, 97 (April 18, 1914), 817.

²⁰For a list of some of these, see Colby, "Curtis Holbrook Lindley," notes 9-16; for some of Lindley's Bunker Hill work, see Katherine G. Aiken, *Idaho's Bunker Hill: The Rise and Fall of a Great Mining Company, 1885-1981* (Norman: University of Oklahoma Press, 2005), 14, 31, 37-38.

²¹Colby, "Curtis Holbrook Lindley," 96-97; *idem*, "Curtis Holbrook Lindley," *Dictionary of American Biography* Base Set, American Council of Learned Societies, 1928-36, reproduced in Biography Resource Center (Farmington Hills, Michigan: Thomson Gale, 2007). <http://galenet.galegroup.com/servlet/BioRC/>, (accessed July 11, 2011).

²²Herbert Hoover, *The Memoirs of Herbert Hoover: Years of Adventure, 1874-1920* (New York: The Macmillan Company, 1951), 27.

²³Colby's claim that Lindley taught Hoover mining law could be correct only if Colby's recollection of the date is mistaken, since he lists the teaching as having taken place in 1909. By then Hoover had been away from Stanford for more than a decade and developed an international reputation as an expert mining engineer. William E. Colby, *Reminiscences: An Interview Conducted by Corinne L. Gilb* (Berkeley: Regional Oral History Office, Bancroft Library, 1954), 108-109.

²⁴"Butler Geologist Presents Vivid Crayon Sketch," *Tonopah Daily Bonanza* (16 December 1914); "Jim Butler-West End Trial Concluded with Dispatch; "Muse Inspires Noted Jurist" *Tonopah Daily Bonanza* (23 December 1914).

²⁵See Colby, *Reminiscences*, esp. 99-100; and Robert W. Righter, *The Battle over Hetch Hetchy: America's Most Controversial Dam and the Birth of Modern Environmentalism* (New York: Oxford University Press, 2005).

²⁶Don H. Sherwood, "The Extralateral Right: A Last Hurrah?" *Rocky Mountain Mineral Law Institute*, 35 (1989), 12:2, n. 1. The similarly titled articles were: William E. Colby, "The Extralateral Right: Shall It Be Abolished?" *California Law Review*, 4:5 (1916), 361-88; *idem*, "The Extralateral Right: Shall It Be Abolished? II: The Origin and Development of the Extralateral Right in the United States," *California Law Review*, 4:6 (1916): 437-64; *idem*, "The Extralateral Right: Shall It Be Abolished? III: The Federal Mining Act of 1872," *California Law Review*, 5 (1916), 18-36; and *idem*, "The Extralateral Right: Shall It Be Abolished? IV: Conclusion," *California Law Review*, 5 (1917), 303-30.

²⁷Stephen Cresswell, *Mormons and Cowboys, Moonshiners and Klansmen: Federal Law Enforcement in the South and West, 1870-1893* (Tuscaloosa: University of Alabama Press, 1991), 97.

²⁸*Ibid.*, 97-132. Members of the Mormon community charged that Dickson ignored Gentiles committing the same offenses. "Accused of Partiality," *Washington Post* (14 February 1885). "Gentile" is the Mormon term for non-Mormons.

²⁹On the jars, see Cresswell, *Mormons and Cowboys*, 120; on the punch in the face, see "Assaulted by Mormons," *New York Times* (23 February 1886); and Frank J. Cannon and Harvey J. O'Higgins, *Under the Prophet in Utah: The National Menace of a Political Priestcraft* (Boston: The C. M. Clark Publishing Co., 1911), ch. 2. <http://www.gutenberg.org/etext/7066/>, (accessed July 11, 2011).

³⁰In 1905, he built an ornate house in Salt Lake City's Capitol Hill neighborhood that still stands. Nelson Knight, "This Old House: Dickson-Gardner-Wolfe Mansion," *The Capitol Hill Neighborhood Council Bulletin* [Salt Lake City], no. 49 (May 2005), 1-2. http://www.capitolhillcc.org/bulletin/2005/49_05-2005.pdf, (accessed July 13, 2011).

³¹These included *Lawson v. U.S. Mining Company*, *Mammoth Mining Company v. Grand Central Mining Company*, *Conkling Mining Company v. Silver King Mining Company*, *Thompson et al. v. Kearns et al.*, *Niagara Mining Company v. Old Jordan Mining Company*, and *Eureka Hill Mining Company v. Bullion, Beck and Champion Mining Company* (List from "Grand Galaxy of Talent.")

³²Dickson left Salt Lake City in 1917 after the death of his wife, and lived in Los Angeles until his death, in 1924. Knight, "This Old House," 2.

³³"Montana-Tonopah Holds Meeting in Reno," *Nevada State Journal* (2 July 1905); for more on the Montana-Tonopah, see Carpenter, Elliott, and Sawyer, *History of Fifty Years of Mining*, 50-51, 64-65, 90-95 (which does not mention Dickson explicitly).

³⁴"On August 1, 1901, the Cliffords conveyed by deed their right, title, and interest in the Wandering Boy, as well as in the Lucky Jim and Stone Cabin, to W. H. Dickson and A. C. Ellis, and on May 5, 1902, Dickson and Ellis conveyed the same to the complainant [the Tonopah and Salt Lake Mining Co.] herein." *Tonopah and Salt Lake Mining Co. v. Tonopah Mining Co.*, 125 F. 400. The other two lawsuits of the group had the same title and were reported as 125 F. 389 and 125 F. 408 (1903). The Stone Cabin and Wandering Boy claims were not part of the dispute between the Butler and West End, as the conflict was limited to the Butler's Eureka and Curtis claims and the West End's claim of the West End. For their ownership by the Butler Company, see Carpenter, Elliott, and Sawyer, *History of Fifty Years of Mining*, 96.

³⁵"Judge Dickson Dies on Coast," *Deseret News* (18 January 1924); "Grand Galaxy of Talent." I would particularly like to thank Nelson Knight of the Utah Division of Historic Preservation for the *Deseret News* obituary and a photograph of Dickson. Both Ellises appear frequently on reported court cases with Dickson. It is unclear which A. C. Ellis was involved with Dickson in the early Tonopah claims. A. C. Ellis, Sr., died in 1912. J. P. O'Brien, ed., *History of the Bench and Bar of Nevada* (San Francisco: Bench and Bar Publishing Company, 1913), 79-80.

³⁶"Brown, Hugh Henry," in *Who Was Who In America*, vol. 1, 4th printing (Chicago: Marquis Who's Who, 1943), 149; O'Brien, *History of Bench and Bar*, 88; also see the memoir of Brown's wife, Mrs. Hugh (Marjorie) Brown, *Lady in Boomtown: Miners and Manners on the Nevada Frontier* (Palo Alto, Calif.: American West Publishing Co., 1968).

³⁷Brown worked for Campbell, Metson and Campbell, who appear as part of the legal team in *Tonopah and Salt Lake Mining Co. v. Tonopah Mining Co. of Nevada*, 125 F. 389 (1903).

³⁸O'Brien, *History of Bench and Bar*, 96-97.

³⁹Harry Hunt Atkinson, *Tonopah and Reno Memories of a Nevada Attorney*, Barbara C. Thornton, ed. (Reno: University of Nevada Oral History Project, 1970), 21-23, 30-33, 43.

⁴⁰O'Brien, *History of Bench and Bar*, 95.

⁴¹"Grand Galaxy of Talent."

⁴²*Jim Butler Tonopah Mining Co. v. West End Consolidated Case File*, U.S. Supreme Court Appellate Case Files, 25458, Number 249, Box 5000, Record Group 267, National Archives, Washington D.C., 513-14 (cited hereafter as *Jim Butler v. West End Transcript*).

⁴³"Grand Galaxy of Talent."

⁴⁴"Political Notes: Marginalia," *Time*, 27 August 1934. <http://www.time.com/time/magazine/article/0,9171,747759,00.html>, (accessed 11 July 2011).

⁴⁵The *Tonopah Daily Bonanza* spelled his name "Searles" throughout the trial, but the case transcript spells it correctly. For Searles's qualifications, see *Jim Butler v. West End Transcript*, 856-57. See "Geology of the Tonopah Lodes Related by Experts," *Tonopah Daily Bonanza* (18

December 1914), for Searls's testimony, in which he used a complex geological analogy, which Ramsey called a distinct feature of his testimony. For Searls's career with Newmont, see Robert H. Ramsey, *Men and Mines of Newmont: A Fifty-Year History* (New York: Octagon Books, 1973), 39-45, 179. Searls was a top Newmont executive between 1931 and 1966. Colby later tried and won several important extralateral-rights cases for Searls concerning Newmont's Empire Star mine in the Nevada City, California mining district. Searls served as a member of the United States Strategic Bombing Survey during World War II and of Bernard Baruch's delegation to the United Nations Atomic Energy Commission. Barton J. Bernstein, "The Quest for Security: American Foreign Policy and International Control of Atomic Energy, 1942-1946," *Journal of American History*, 60:4 (1974): 1032-1034. The Searls' lawyers practiced almost exclusively in Nevada City, California, where Lindley was also extensively involved. The Searls house and law library is now preserved as a research library as part of the state park system of California; see http://nevadacountyhistory.org/html/searls_library.html, (accessed January 24, 2013).

⁴⁶Andrew C. Lawson and Harry Fielding Reid, *The California Earthquake of April 18, 1906: Report of the State Earthquake Investigation Commission* (Washington, D.C.: Carnegie Institution of Washington, 1908).

⁴⁷Fred Searls Jr., "The Consultant," in Andrew C. Lawson: *Scientist, Teacher, Philosopher*, Francis E. Vaughan, ed. (Glendale, Calif.: A. H. Clark, 1970), 205-11, lists cases for which Lawson testified. In addition to the *Jim Butler* case and Lawson's work with the Bunker Hill and Sullivan in their fight against the Last Chance in 1909 (compromised without a lawsuit), Searls notes that Lawson testified in the following: *Pennsylvania Co. v. Grass Valley Co.* (W.Y.O.D. case), 117 F. 509 (1902); *Utah Consolidated M. Co. v. Apex Mining Co.*, 277 F. 41; cert. denied 258 U.S. 619; *Utah Consolidated M. Co. v. Utah Apex Co.*, 285 F. 249; cert. denied 261 U.S. 615 (1921); *Clark Montana Co. v. Anaconda Co.*, 20 F.2d 1008, compromised; *Moulton Mining Co. v. Anaconda Mining Co.*, 23 F.2d 811 (Poser); *Stewart Mining Co. v. Ontario M. Co.*, 132 Pac. 787; 237 U.S. 350; *Twenty-One Mining Co. v. Sixteen to One Mining Co.*, 260 F. 724; 265 F. 469; *Tom Reed v. United Eastern M. Co.* (Kingman, Ariz.), 209 Pac. 283; cert. denied 260 U.S. 744; *Stewart Mining Co. v. Bourne and Stewart Mining Co. v. Sierra Nevada Mining Co.* (consolidated), 218 F. 327; *Empire Star Co. v. Grass Valley Bullion Mines Co.*, 99 F.2d 228; *United States v. United States Borax Co.*, 58 Land Decisions 426; *Home v. Champion Mining Co.*, settled, not reported; *Shasta Iron Co. v. United States*, citation not given. For Lawson's work for the MacNamara with Lindley against the West End, see *Jim Butler v. West End Transcript*, 273. See also Francis E. Vaughan, *Andrew C. Lawson: Scientist, Teacher, Philosopher* (Glendale, Calif.: A.H. Clark, 1970); Perry Byerly and George Davis Louderback, "Andrew Cowper Lawson," *National Academy of Sciences Biographical Memoirs*, 37 (1964), 185-204; and Peggy Champlin, "Lawson, Andrew Cowper," in *American National Biography*, vol. 13 (New York: Oxford University Press, 1999), 294-96. The practice tunnel in which University of California mining engineering students refined their craft, built in 1930, was named the Lawson Adit for him.

⁴⁸N. H. Winchell and H. V. Winchell, *The Iron Ores of Minnesota: Their Geology, Discovery, Development, Qualities, and Origin, and Comparison with Those of Other Iron Districts*, Geological and Natural History Survey of Minnesota Bulletin 6 (Minneapolis: Harrison and Smith, State Printers, 1891). See this reference also for Winchell's glowing review of the third edition of "*Lindley on Mines*." Winchell was also president of the American Institute of Mining Engineers in 1919. Elizabeth Noble Shorr, "Horace Vaughn Winchell," *American National Biography* (New York: Oxford University Press, 1999), <http://www.anb.org/articles/13/13-01835.html>, (accessed July 11, 2011); "Grand Galaxy of Talent"; Clark C. Spence, *Mining Engineers and the American West: The Lace-Boot Brigade, 1849-1933* (1970; reprint, Moscow, Idaho: University of Idaho Press, 1993), 228-29.

⁴⁹He examined the gold mines in northern Korea, for example, leading to western investment there; Spence *Mining Engineers*, 285.

⁵⁰"West End Lawyers in Apex Litigation Begin to Come," *Tonopah Daily Bonanza* (1 December 1914); *Jim Butler v. West End Transcript*, 174-76.

⁵¹"Grand Galaxy of Talent."

⁵²*Jim Butler v. West End Transcript*, 213-14.

⁵³Carpenter, Elliott, and Sawyer, *History of Fifty Years of Mining*, 66-68.

⁵⁴For Chandler's reversal, see *Jim Butler v. West End Transcript*, 235-310; Lindley's quotation is on p. 249.

⁵⁵Chandler was apparently an excellent manager, but he died young, in late 1915. Carpenter, Elliott, and Sawyer, *History of Fifty Years of Mining*, 101, 104.

⁵⁶"Butler Geologist Presents Vivid Crayon Sketch."

⁵⁷Spence, *Mining Engineers*, 215-16.

⁵⁸*Carson City Gold and Silver Mining Co. v. North Star Mining Co.*, 73 F. 597 (1896). Judge Beatty decided for Lindley and the North Star in the District Court. Dickson, along with both A. C. Ellis, Sr. and A. C. Ellis, Jr., lost in the Ninth Circuit Court of Appeals as well, in *Carson City Gold and Silver Mining Co. v. North Star Mining Co.*, 83 F. 658 (1897).

⁵⁹This was the series of cases between the Silver King Coalition Mines Company, represented by Dickson, Ellis, and Lindley (with others), and the Conkling Mining Company. Lindley seems to have been brought into the case for the appeals, as he does not appear in the district court record. *Conkling Mining Co. v. Silver King Coalition Mines Co.*, 230 F. 553 (1916), was the initial case (with Dickson and Ellis, but without Lindley). Lindley was listed on the following: *Silver King Coalition Mines Co. v. Conkling Mining Co.*, 242 U.S. 629, 37 S. Ct. 14 (Mem) (1916); *Silver King Coalition Mines Co. v. Conkling Mining Co.*, 250 U.S. 655, 40 S. Ct. 13 (Mem) (1919); *Silver King Coalition Mines Co. v. Conkling Mining Co.*, 255 U.S. 151, 41 S. Ct. 310 (1921).

⁶⁰"Geology of the Tonopah Lode."

⁶¹"Bar Association of Nye Co. Gives Banquet to Distinguished Brethren," *Tonopah Daily Bonanza* (22 December 1914).

⁶²"Jim Butler-West End Trial Concluded with Dispatch; "Bar Association of Nye Co. Gives Banquet."

⁶³Sewell Thomas, *Silhouettes of Charles S. Thomas: Colorado Governor and United States Senator* (Caldwell, Idaho: The Caxton Printers, Ltd., 1959), 82-83, 88.

⁶⁴Colby, *Reminiscences*, 114-17. His students included Earl Warren as well as the future National Park Service directors Horace Albright and Newton Drury.

⁶⁵Robert M. Searls (along with Colby and Grant H. Smith) is thanked by Lindley for helping with the work and being part of the staff. Lindley, "Lindley on Mines" (1914), iv.

⁶⁶Colby, *Reminiscences*, 81.

⁶⁷On Wingfield, see C. Elizabeth Raymond, *George Wingfield: Owner and Operator of Nevada* (Reno: University of Nevada Press, 1992); on Oddie, see Loren Chan, *Sagebrush Statesman: Tasker L. Oddie of Nevada* (Reno: University of Nevada Press, 1973); on Brown, see Brown, *Lady in Boomtown*; for Brown as part of the Wingfield machine, see Sally Springmeyer Zanjani, *The Unspiked Rail: Memoir of a Nevada Rebel* (Reno: University of Nevada Press, 1981), 161-75.

⁶⁸Ramsey, *Men and Mines of Newmont*, 89. Lindley fell gravely ill during the trial and died a few days later; see Colby, *Reminiscences*, 86-88.

⁶⁹The same case name is reported twice, since the lawyers filed for both a writ of certiorari and an appeal. Lindley was dead by the time the case was decided in the United States Supreme Court, but his name was apparently included on the brief. Lindley and Dickson appear together in the reported decision in 255 U.S. 151; the Jim Butler-West End case is cited in 256 U.S. 18.

⁷⁰O'Brien, *History of Bench and Bar*, 84.

⁷¹Jim Butler v. West End *Transcript*, b, h.

⁷²The light green color of the andesite cap was complemented by the dark green color of the other cap rock, described as Brougner dacite. Black or dark brown depicted rhyolite, blue stripes indicated faults, and gray, the color of the primer used on the model, did not depict any geology. Numbers and letters were painted on in black, and the whole structure was suspended above a claim map in black ink on light-colored paper. Jim Butler v. West End *Transcript*, 11-13.

⁷³J. E. Spurr was the first geologist to report on Tonopah, and his geological nomenclature tended to be used by the Tonopah miners. For the most complete statement of his early work, see J. E. Spurr, "Geology of the Tonopah Mining District, Nevada," U.S. Geological Survey Professional Paper 42 (Washington, D.C.: Government Printing Office, 1905). J. A. Burgess took issue with Spurr's interpretation, termed the rocks differently, and hypothesized geological origins different from those asserted by Spurr. See J. A. Burgess, "The Geology of the Producing Part of the Tonopah Mining District," *Economic Geology*, 4 (1909), 681-712. Perhaps as a response to Burgess or due to further development in the mines, Spurr modified some of his earlier findings, including changing some of the terms for the rocks, in J. E. Spurr, "Geology and Ore Deposits at Tonopah, Nev.," *Economic Geology*, 10 (1915), 751-60. Augustus Locke, "The Geology

of the Tonopah Mining District," *Transactions of the American Institute of Mining Engineers*, 43 (1912), 157–66, summarized the dispute and tended to side with the interpretations of Burgess. Edson S. Bastin and Francis B. Laney, "The Genesis of the Ores at Tonopah, Nevada," U.S. Geological Survey Professional Paper 104 (Washington, D.C.: Government Printing Office, 1918), largely tried to avoid the issue by basing their findings more on chemical analysis. Thomas B. Nolan, "The Underground Geology of the Tonopah Mining District, Nevada," *University of Nevada Bulletin* 29, no. 5 (1935), 1–49, is considered the last word on the subject. Nolan later headed the USGS.

⁷⁴Lindley squeezed this point out of Juessen in cross-examination. In *Jim Butler v. West End Transcript*, 206. The point is further elaborated on pp. 207–209, where Lindley went after the "abrupt change" on the model.

⁷⁵*Jim Butler v. West End Transcript*, 15–16.

⁷⁶Interestingly, Averill would have had to have defended the idea of the vein as a single one in his role as counsel for the MacNamara in its apex fights from 1904 to 1908, a fact of which Lindley would have undoubtedly been aware, and which might have caused discomfort for the judge had his opinion been reversed, as had Chandler's. The issue does not seem to have come up in the transcripts of the trial, however, and Averill's decision in the Butler-West End case evaded the possibility of contradicting his earlier work.

⁷⁷*Jim Butler v. West End Transcript*, 1137–1158. The opinion was also printed in full, without the diagram, in "West End Wins Decision in Apex Case," *Tonopah Daily Bonanza* (30 April 1915).

⁷⁸39 Nev. 375 (1916), 158 Pac. 876, 1 A.L.R. 405; 247 U.S. 450 (1918); 38 S. Ct. 574; 62 L. Ed. 1207.

⁷⁹For examples of this accounting, see folder "West End Consolidated Mining Co.—Tonopah, Purchase 1–2003," West End Consolidated, Mining Collections, Lied Library, University of Nevada, Las Vegas, Special Collections.

⁸⁰Carpenter, Elliott, and Sawyer, *History of Fifty Years of Mining*, 98, 138.

⁸¹*Ibid.*, 106–14.

⁸²3 B.T.A. 128, 130; Carpenter, Elliott, and Sawyer, *History of Fifty Years of Mining*, 102.

⁸³Otis E. Young Jr., *Western Mining: An Informal Account of Precious-Metals Prospecting, Placering, Lode Mining, and Milling on the American Frontier from Spanish Times to 1893* (Norman: University of Oklahoma Press, 1970), 227–30; Spence, *Mining Engineers*, 196–97.

⁸⁴On stopping rumors, see, for example, "Malicious Reports of Apex Suit Circulated by Eastern Brokers," *Tonopah Daily Bonanza* (17 July 1914); on playing down controversy, see, for example, "West End Officers in Conference in New York," *Tonopah Daily Bonanza* (3 April 1914).

⁸⁵See Raymond, "Law of the Apex"; and Rossiter W. Raymond, "The Law of the Apex—Appendix," *Transactions of the American Institute of Mining Engineers*, 12 (1884), 677–88.

⁸⁶This eventually happened with coal, gas, oil, and a handful of other commercially valuable industrial minerals such as phosphate, which were leased for royalties when found on public lands after 1920. Non-metallic minerals, such as gravel, sand, and building stone, were also converted to a different system in 1947 and 1955. William R. Marsh and Don H. Sherwood, "Metamorphosis in Mining Law: Federal Legislative and Regulatory Amendment and Supplementation of the General Mining Law since 1955," *Rocky Mountain Mineral Law Federation*, 26 (1980), 211–20. However, extralateral rights for metal mining claims exist in the law to this day.

⁸⁷"The Ending of a Momentous Case," *Tonopah Daily Bonanza* (30 April 1915).

⁸⁸The Waugh Kid, "What Is a Halo and Why," *Tonopah Daily Bonanza* (17 May 1915).

⁸⁹"Muse Inspires Noted Jurist."

Virginia City's Fledgling Police Force Takes on Journalists and Opium, 1870s-1880s

DIANA AHMAD

During the 1870s and 1880s, Virginia City's fledgling police force faced a developing press corps and an ever-growing opium smoking business. The journalists pressured the police to end the opium problem to save the community from the perceived evils of the narcotic. Because of the pressure, the police responded by attempting to shut down the opium dens. They located dens in the community and sometimes set up sting operations that would allow the arrest of violators of the opium ordinances. Yet, despite successful raids on a few of the opium resorts, the police largely responded only when pressured to do so by the journalists.

At this time, as in many other communities in the United States, the Virginia City police force was only beginning to develop and to understand their responsibilities. Unfortunately for the community, few police agencies existed in the United States for Virginia City to emulate. Even the New York Police Department, the first modern police agency in the United States, did not come into being until 1845, only fourteen years before the beginning of the

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Comstock community. As a result, the police who were to maintain order on the Comstock had few places to look for guidance or assistance in monitoring criminalized vice in a western boomtown.

The Virginia City Police Department enforced the ordinances passed by the city fathers of the community. In the area of unsavory entertainment, Virginia City regulated and often licensed facilities such as saloons, cock and dog pits, and houses of ill-fame. Yet, it was not until September 1876 that the community passed its first ordinance abolishing, not regulating, Chinese opium dens. The choice of words in the ordinances, "regulate" or "abolish," separated actions that would be tolerated by the citizens of Virginia City from those that would not. The 1876 anti-opium ordinance prohibited people from maintaining, visiting, or contributing to the support of such establishments. Initially, violators could receive a fine of at least \$50 and/or ten days in jail. Generally located in Chinatown, opium dens initially existed for the recreational pleasure of a few of Chinatown's dwellers, but by 1875, more and more non-Chinese started visiting the opium resorts. Opposition to the dens grew as the number of white smokers increased. Because of that, the Virginia City, Carson City, Reno, and other Nevada leaders called for the creation of more and stronger anti-opium smoking ordinances and demanded that the cities' police officers take appropriate actions to stop use of the substance.

On August 8, 1876, expressing frustration and protest, Reno's *Nevada State Journal* complained, "it seems altogether impossible for the authorities to stop it; if indeed they are inclined to make any effort in that direction."¹ At that moment, it was impossible for the Reno police to do anything about the opium-smoking problem in their community because laws had yet to be written preventing it. The first law banning the substance did not exist until five weeks later, and that ordinance was passed in Virginia City. Despite the passage of ordinances and statutes, the local police force largely ignored the opium establishments and the laws unless forced into action by the journalists of the community. The Virginia City chief of police likely decided to take a selective approach to law enforcement regarding the opium dens instead of following the letter of the law. He had too much to do in the community to focus on only one ordinance. Therefore, as did other police agencies around the United States that dealt with vice issues, the Virginia City Police Department responded to the opium problem, only after being pressured to do so by the press corps.

With the passage of the 1876 "Ordinance to Abolish Opium-Smoking Dens," the smoking of opium became a crime in Virginia City. Societies create a crime, a legal concept as well as a forbidden act, when a behavior is no longer deemed desirable to a community. Acceptable behaviors change over time as a city or town develops and changes. Ideally, the local police force acts as an agent of the community to control and/or eliminate undesirable behavior; however, police agencies often practice selective enforcement of

community laws no matter what the city fathers have decided is acceptable or unacceptable behavior.² The Virginia City police faced problems similar to those in other parts of the United States, including a lack of manpower and training in law enforcement, a heterogeneous population, little social solidarity, and little experience in controlling human behavior.³

Often told, the history of the Comstock Lode began in early 1859 with the discovery of a wonderfully rich gold and silver vein. Thousands of miners soon rushed to the region that was then located in western Utah Territory. In March 1861, after some debate about whether or not Utah Territory should continue to control the Comstock area, the Territory of Nevada was created. With that accomplished, by December 1862 Virginia City was incorporated as a city, along with the City of Gold Hill, its immediate neighbor.⁴

In the mix of those rushing to the Mount Davidson region, came Chinese miners seeking their fortunes just as the others. They not only brought their hopes for great fortune to the area, they also carried with them the habit of opium smoking. Although few Chinese actually smoked opium, the narcotic soon became linked with the entire community because opium dens opened in Chinatowns across the United States.⁵ The arrival of the narcotic in and of itself was not the problem. The problem was the fact that middle- and elite-class Americans expected the United States to become the uncontested industrial giant of the world. The smoking of opium threatened not only the nation's economic rise, but also the traditional role of women and family in the American system. In addition to an alleged ability to heighten sexuality, smoking opium was also linked with the spread of disease such as smallpox, and to the loss of morality, an increase in insanity, and death. As such, the smoking of opium and its associated resorts or dens needed to be eradicated as soon as possible.⁶ With that in mind, journalists rallied against the opium dens and their users, Anglo-American and Chinese alike. The newspaper men used the power of the press to push the police to seek out and eliminate the city's "sinks of pollution."⁷

The police force and the journalists in Virginia City possessed similar ideas for the community. Each desired to keep the city in line with the traditional values of the era. By the 1860s, and with a long-organized history in the United States, journalists came to be seen as agents of reform and as providers of vital information about and for their communities.⁸ Newspapers provided a sense of stability and identity, as well as serving as boosters for their towns. An increase in the number of people working for newspapers began during the Civil War, when readers demanded to know what was going on in the conflict. Newspaper owners began spending money to get the news to their readers.⁹ Second only to church and school in importance, the journalists helped form the communities' perceptions of crime and its victims. Considering themselves an "honorable profession," journalists believed a reporter should be "a just man and a gentlemen [*sic*]," and they hoped to protect "public dignity and prosperity."¹⁰

In November 1860, the *Territorial Enterprise*, the self-proclaimed "oldest and best Newspaper in Nevada," began publishing in Virginia City. With a well-known staff, including Dan DeQuille (a. k. a. William Wright), Samuel Clemens (later known as Mark Twain), and Wells Drury, the *Territorial Enterprise*, a morning newspaper, competed with, among other publications, the *Evening Chronicle* for readership. With a young staff, the *Territorial Enterprise* became the most influential newspaper in the West with the 1881 *History of Nevada* proclaiming that the *Enterprise* could not have "ranked second to any upon the coast." Making \$1,000 a day in the early days, the *Enterprise* was a larger publication than any in San Francisco, according to Wells Drury.¹²

In Virginia City and elsewhere in Nevada, journalists often reported on the vice industry in their communities. They called upon the police agencies to enforce ordinances and statutes prohibiting a variety of behaviors that, in their eyes at least, threatened the moral fiber of the area and potentially the nation. In some ways, the journalists encouraged the public support that permitted the local police to be successful. Members of society placed authority into the hands of the police to ensure that order was maintained for the betterment of the communities they served.¹³ Historically, the police faced much political pressure from police boards and community groups to ensure that the community was protected from undesirable behaviors on the part of various members of society.

Opium smoking, considered a vice, dealt with a violation of contemporary moral codes and acceptable standards of behavior. The values of the middle and elite classes were what mattered the most in the community. The criminal code that the police would enforce reflected those who spoke out, such as the journalists who sought the elimination and prohibition of vice. Although regularly reporting about drinking, gambling, and prostitution in the community, journalists treated those vices more matter-of-factly than they did opium smoking. When writing about the narcotic, the journalists took on the role of moral arbiter and called upon the police to end the drug's use in the community. The police, then, became regulators of morality by allowing or not allowing opium smoking to continue.¹⁴

Understanding that the powerful citizens of the community expected high standards of behavior, the police were faced with a dilemma regarding vice. They were aware that it was unreasonable to expect vice to actually disappear, so they hoped that members of the underworld might, in a manner speaking, simply vanish. In other words, the police hoped that the demimonde would remain in their own neighborhoods, out of sight of those who regulated the standards of the community. By doing so, the unacceptable behavior, such as opium smoking, would not directly threaten society.¹⁵

The police desire to have those groups remain covert resulted from two causes. First, violators of vice laws, including gamblers, prostitutes, and opium-den operators, provided operating funds to the city through their payment of

finances and/or their purchases of business licenses.¹⁶ And second, the history of modern police agencies in the United States was short, and they had not yet time to develop a practical and acceptable means for controlling such behaviors.

The roots of American police agencies date from the era of Alfred the Great of England during the ninth century. He initiated the system in which everyone in the community was relied upon to be responsible for watching over everything in their community. That developed into clustering every ten families into a "tithing," and for every ten tithings, the entire group received one constable. These were grouped into a "shire" that received one supervisor, known as a "shire reeve" from which derives the modern term "sheriff." Then came the development of the "watch and ward" system that continued to make crime a community responsibility, but added men who took turns at standing watch at night to make sure everything remained safe during the overnight hours.¹⁷

In 1829, the British, under the direction of Sir Robert Peel, a future prime minister of Great Britain, developed a more sophisticated policing system. Considered a civilizing agent, the Metropolitan Police of London used "territories" or "beats" that were patrolled by police. Peel wrote nine principles that guided the London police then and continue to be incorporated into modern policing systems today. Peel's principles say that the police exist to prevent crime and disorder, not just to react to them. Also, the public must voluntarily follow the law, and the efficiency of the police will be seen in the absence of crime or disorder in a community.¹⁸

Prior to the development of the modern system of policing founded by Peel, the approach to policing British colonies in North America in the seventeenth and eighteenth centuries also followed the early British techniques of using night watchmen, constables who took care of towns, and sheriffs who watched over counties. In addition, the idea that all citizens had a duty to watch out for violators of community safety was carried over from the mother country. By the 1760s and 1770s, the British started using military personnel to patrol the American colonies; however, the colonists viewed them as akin to a standing domestic army and feared their power and potential for oppression.¹⁹

After the American Revolution, communities in the new United States continued to use the night-watchman approach from the British era. These forces were not uniformed and continued to call out the time and weather conditions during their night patrols. By the 1830s and 1840s, however, that system became inadequate to regulate the growing cities of the new nation. The development of American police departments did not follow any logical pattern or progression. Each community around the United States evolved its own style of law enforcement.²⁰

Until 1857, early police departments often used the day-watch style of policing communities, leaving night patrols to the traditional night watchmen. As early as 1636, Boston had a night-watchman system and added a day-police force in 1838. Philadelphia, in 1833, received money from

a local philanthropist to establish a police force; however, the agency ended only two years later. Other pre-Civil War communities that developed police departments included Chicago (1851), New Orleans and Cincinnati (1852), and Baltimore and Newark (1857). West of the Mississippi River, pre-Civil War police departments included St. Louis (1859), Kansas City (1862), and San Francisco (1849). The first San Francisco police department was formed to deal with the Gold Rush and, in 1853, it established day and night police reminiscent of the early East Coast community police units.²¹

New York City, however, developed the first modern American police force based on Sir Robert Peel's system, and expanding on an 1845 New York law that abolished the watch system. The city passed the new Metropolitan Police bill and consolidated the police districts of the cities of New York, Brooklyn, and the counties of Kings, Westchester, and Richmond. John A. Kennedy, the head of the newly created New York Police Department, modernized police work by using new technology such as cameras to create a rogues' gallery and instituting telegraphic communication between police stations. In addition, he established a detective unit and a harbor police team.²² In 1856, New York City adopted a police uniform, although each officer developed his own. Earlier, uniforms seemed undemocratic, militaristic, and a reminder of the colonial past. After the Civil War, uniforms for the police became more acceptable to the nation as a whole. By 1880, in cities and towns of five thousand people or more, the number of police officers and patrolmen had risen to nearly fourteen thousand, indicating a society interested in maintaining order in its communities.²³

In the American West, peace officers came in two basic categories, the local sheriff or constable and private or special forces, such as mine inspectors. Local officers were usually hired when a town reached a population of one thousand or more. The people in the West often did not know or understand their rights as citizens because there were few law books available.²⁴ The best place to find out about a new ordinance or statute was in a community's newspaper, thus making the press an even more influential part of the communities. Virginia City formed its police department during these early days of western policing.

In 1861, while still a part of Utah Territory, Virginia City used a justice of the peace who had the authority to impose fines and dole out jail sentences for violations of the city ordinances. The system continued when the community became a part of the Territory of Nevada that November. Between the 1860s and 1880s, Virginia City had a chief of police, his patrolmen, a Storey County sheriff, his deputies, and also a federal marshal and his staff. The first Chief of Police was appointed in 1864. The chief was required to be elected annually and be a resident of Virginia City. C. Cook, the first Virginia City chief of police, received \$150 per month, or \$1,800 per annum, while his counterparts in Boston received \$1,095 per annum, and in New York City approximately \$1,200 per annum.²⁵ Considering the economic inflation in the West, the salaries were probably about the same.

By 1875, the police department grew to include the chief, a deputy chief, a jailer, and as many policemen as needed. According to the 1877 city charter, the Board of Police Commissioners, composed of the mayor, chief of police, and president of the board, had the "power to appoint, suspend and remove all policemen and jail keepers, and to regulate, control and make all rules for the government of the Police Department."²⁶ In addition to the chief and his regular policemen, Virginia City was permitted to hire "specials," men who operated under rules and regulations of the Police Department, yet were not paid out of the city's coffers. Specials could be hired to work in particular sections of the community, such as Chinatown.²⁷

Between 1864 and 1890, at least fourteen men served as either chief of police or sheriff. During the years that Storey County controlled Virginia City, several of the men served as county assessor while simultaneously serving as sheriff. The professions of the men prior to becoming the chief of police, sheriff, or policeman varied widely, and included stone masons, butchers, saloon keepers, machinists, yardmaster for the Virginia and Truckee Railroad, and, not surprisingly, miners. Between 1870 and 1880, the men in the police department averaged about forty years of age, were literate, and the majority were native born.²⁸

The duties of the police force were simple and direct: patrol the officer's beat or district, and arrest violators of Virginia City's ordinances. The police were required to keep well-documented arrest records that included the names of the complaining witnesses, and arresting officers, and assorted other details. Officers were also supposed to provide for the removal of snow and ice from the sidewalks and gutters of the city, an important matter during the winters, especially at the community's six-thousand-foot elevation. Further, on-duty police officers could not enter any public drinking establishment, gambling house, house of ill-fame, or place of public amusement unless on official business.²⁹

Another part of the police department's tasks included making sure that certain professions and managers of particular businesses purchased licenses. In addition to assayers, barbers, and owners of shipping companies or livery stables, owners of cock and dog pits or saloons paid daily or quarterly license fees to the city ranging from \$5 per day to \$100 per quarter. If the licenses were not purchased, the police were entitled to 25 percent of the fine assessed against the violators, certainly a good inducement to the police to inquire whether or not merchants had paid the city their fees.³⁰

In addition to ensuring that the city received its license fees, the police were also required to arrest violators of the "peace, good order and health of the city of Virginia." These misdemeanors included selling or exhibiting lewd cards or pictures, circulating illustrations of diseases of the sexual organs, and the hiring of women to work where "malt, vinous or spirituous liquors are used or sold." Fines of up to \$500, and/or six months in jail awaited those found guilty of these violations.³¹

As in other communities around the United States, numerous ordinances on Virginia City's law books were designed to end behaviors that people engaged in for entertainment, including drinking, gambling, and sex. The idea behind the laws was to prevent vice and immorality, while preserving peace and order.³² Although gambling and prostitution might be considered violations of the public order, neither behavior was strictly prohibited in Virginia City. By 1875, both vices were simply regulated. Regarding gambling, the city required that gaming establishments have a license, prohibit those under twenty-one years of age from entering the house, and not permit the hanging of outside signs advertising the availability of games of chance.³³ Concerning prostitution, the ordinances of 1875, 1878, and 1888 only stipulated that houses of ill-fame be located within certain defined borders of the city and that the women could not solicit customers or display themselves in windows or doorways.³⁴ Although saloons needed to be licensed, brothels were permitted with few regulations besides needing a license and prohibiting females from remaining in the facility between six in the evening and six in the morning.³⁵

The vices of Virginia City also included Chinese opium smoking. Unlike ordinances regulating saloons, games of chance, and houses of prostitution, the laws regarding the smoking of opium abolished, not regulated, the narcotic and its use. The community fathers treated opium smoking differently than other vices because of its association with the Chinese and Chinatown. Medical beliefs about the drug at that time found their way into popular publications of the era and it is likely that city leaders had read some of the physicians' works on smoking-opium or at least journalists' versions of the information. The medical community believed that smoking the narcotic caused users, among other things, to develop a lack of sexual self-control. This, then, could lead to the deterioration of American industry because of the loss of energy associated with sexual encounters. In addition, general anti-Chinese sentiment added to the demands to abolish the smoking of opium and its opium dens.³⁶

Demands to pass ordinances and statutes banning the substance were heard by the civic leaders of Virginia City, and later, by the State of Nevada. On September 12, 1876, Virginia City passed its first law banning the smoking of opium. In addition, it became illegal to keep, maintain, become an inmate of, visit, or contribute to the support of any opium den. These resorts were declared "nuisances," and violators could receive fines ranging between \$50 and \$500 and/or ten days to six months in jail. Only five months later, in February 1877, the State of Nevada passed its first anti-smoking-opium statute. It also forbade the keeping of an opium resort, possessing an opium pipe, and smoking the narcotic. Amended at least four times in the nineteenth century, the anti-smoking-opium statutes became the model for more than eighteen states and territories in the United States.³⁷

More than a decade before the passage of the 1876 anti-smoking-opium ordinance, the Comstock-area journalists called attention to the "Chinese vice." In May 1865, the *Gold Hill News* noted the arrival of the first Chinese in

Virginia City, referring to them as “long-tailed opium-eaters.” The existence of opium dens was a well-known fact in Virginia City and even the 1872 fire that swept through Chinatown burning eighty buildings did not cause the opium dens to take a hiatus. Reporters found “no less than three opium houses in full blast” just after the fire and noted that the “losses in the fire probably sent many of these men to the opium houses.”³⁸

By the mid-1870s, the journalists began publishing article after article about the evils of smoking opium, often referring to the opium resorts as “loathsome sinks of pollution” and “loathsome Mongolian dens.”³⁹ In 1874, Dan DeQuille of the *Territorial Enterprise* wrote “A Cave of Oblivion,” the most descriptive article about opium smoking, in which he described an opium den and its inhabitants. Although DeQuille made no comment about the lack of police regulation and did not call for an ordinance regulating the substance, his dark description provided readers with an insight into the vice that few other journalists offered. He compared the opium den to “the cave of the Seven Sleepers” at Ephesus, Turkey, and found that “a cadaverous opium-smoker is seen in nearly every bunk,” while the smell of the burning opium offers a “sweetish-bitter odor” that “saturates the whole place.” DeQuille commented upon the dens noting “thus the business of the cavern goes on, day and night.”⁴⁰

Other journalists, not as eloquent as DeQuille in their descriptions of opium smokers and resorts, may have made a greater impact on their readers with their blunt narratives. For example, in July 1875, a reporter for the *Virginia Evening Chronicle* described the death of a woman of “disreputable character” who died in Carson City from a probable overdose of smoking-opium saying that “when the opium habit once fixes upon a person it is impossible to break it, and an untimely death is the inevitable result.” The *Territorial Enterprise*, in March 1876, published an editorial about opium smokers, finding that “they have at last sunk to a level of degradation even lower than that of the pagan brutes with whom they daily and nightly herd.”⁴¹

The association among journalists, the police, and calls for opium regulation began early in Nevada in response to the increasing number of opium dens and smokers in the communities. In 1872, with “nocturnal guardians of the public peace,” reporters for the *Pioche Daily Record* took a tour through Chinatown and visited the local opium dens as if on a sightseeing tour.⁴² But in Virginia City, demands to end the opium business in the community also soon began. Noting that “there seems to be no practicable method of suppressing the nuisance,” the *Territorial Enterprise* called for anti-opium ordinances, saying “it is strange that municipal enactments cannot be framed of sufficient force to utterly suppress this disgusting nuisance.” Then, just over a month before the Virginia City ordinance came into being, the *Virginia Evening Chronicle* complained that “it seems altogether impossible for the authorities to stop it, if indeed they are inclined to make any efforts in

that direction." The *Evening Chronicle* article was reprinted in Reno's *Nevada State Journal* a few days later, providing evidence about the growing concern regarding the narcotic even away from the Comstock's communities.⁴³

Neither the *Territorial Enterprise* nor the *Virginia Evening Chronicle* had to wait long for the first anti-opium-smoking ordinance to be passed. Approved on September 12, 1876, the ordinance was headlined the next day by the *Evening Chronicle*. The *Evening Chronicle* saved its editorial comments about the law for the September 14 issue, in which the writer noted that a Chinese man had been the first person arrested under the new law. The journalist expressed his desire that the police "will not shirk their duty in this matter. They have the power to shut up every opium den in the city now, and will have no excuse should they fail to do it." The writer concluded by encouraging the law enforcers to go into Chinatown and "do their duty" with the hope of closing all the opium dens.⁴⁵

In the article that accompanied the editorial of September 14, the *Evening Chronicle* reporter wrote about his experiences just after midnight on the morning of September 13, the day the anti-opium-smoking ordinance went into effect. Wondering how the new ordinance impacted the local opium dens, the reporter visited "all the dens" in Virginia City's Chinatown. He found the community quiet. The reporter spoke with den proprietors about the new ordinance and heard that they believed the law was only to stop Anglo-Americans from smoking opium and that the Chinese did not need to fear arrest by the police. Apparently, the proprietors had not yet heard about the Chinese man who had been arrested earlier that night for violating the new ordinance. The reporter found no Anglo-Americans in the dens that evening.⁴⁶

The enthusiasm to arrest violators apparently faded quickly as by September 28, 1876, a Virginia City police "special" officer, under the pretext of wanting to smoke opium, went into a den in a surreptitious search for stolen goods. He discovered where the items were hidden, left the den, and reported his findings to the chief of police. The police unit returned to the den and claimed the stolen goods, including gold coins, watches, and pistols. Despite the success of the raid in finding the stolen items, no one was arrested for smoking opium or for maintaining an opium den.⁴⁷ The raid on the den had served only as a means to the end of recovering the stolen merchandise.

More prevalent in the newspapers than articles about the problems occurring in opium dens were calls for enforcement of the opium law and calls for police raids on the resorts. The demands began soon after the passage of the first opium ordinance and continued into the 1880s after a series of new Virginia City ordinances and new State of Nevada statutes were passed by their respective legislative bodies. Occasionally, the journalists printed the details of a raid with only minimal editorial content, while at other times the newspapers' editorials verged on fire-and-brimstone rhetoric to demand more raids on the dens. For example, on April 7, 1877, the *Territorial Enterprise* published an editorial complaining that the evils of smoking opium were even

worse than the Chinese "inroads into the fields of industry." They went on to complain that "with the cunning of devils they have learned how to appeal to the turbulent passions of youth, in ways which, once yielded to, seem ever after irresistible."⁴⁸ The editorial resulted from a successful raid on an opium den the day before in which four men and one woman were arrested by a police unit consisting of at least five officers. The young Anglo-Americans were brought before a Judge Knox, who found four of the five guilty of violating the ordinance.⁴⁹

Sometimes the newspapermen pleaded with the police to enforce the laws, practically beseeching the officers to "do their duty." Occasionally, the pleas were heard and acted upon by the governing bodies of Virginia City. On March 29, 1879, the *Territorial Enterprise* complained that "no attention has been paid to the dens" where people smoked opium.⁵⁰ The next day, March 30, an opium den on H Street was raided and four "boys in various stages of stupefaction" and two Chinese were arrested. The Chinese men went before a Justice Moses on April 1. Then, on April 2, at a special meeting of the Virginia City Board of Police Commissioners, the mayor, the president of the commission, and the chief of police agreed that new steps were needed to suppress the opium dens in town. In part, they used a moral argument stating that the dens were frequented by young people "to their moral degradation and ruin" and by "hardened sinners." The Board decided to instruct the chief of police to raid the dens "at irregular and unexpected times, in order to catch the keepers of the den" and they also assigned a police officer to find the dens ahead of time so that no time was wasted locating the dens on the day of the raid.⁵² On Sunday afternoon, April 6, Chief James McCourt and three of his officers raided the known opium dens. Unfortunately, the raid was not as successful as hoped because, according to the press, the dens' proprietors received notice "through their spies" that the police were coming. Despite that, "quite a haul" of Chinese and even "a few whites" was made. The Anglo-Americans were used as witnesses against the Chinese. Discussing the raids on April 6, the *Territorial Enterprise* commented that "the police have started in on this business in earnest and raids will now frequently be made."⁵³ Likely, the journalists were more hopeful than realistic in their views.

The newspapers continued to publish articles about raids, police actions or inactions, and problems that occurred in the dens.⁵⁴ Things changed by late 1880, when the *Territorial Enterprise* complained that "it is impossible to convict a white man of opium-smoking, and that when Chinese keepers of opium dens are arrested it is impossible to identify them as such keepers, on account of the perjury of their countrymen." If the editorialist had stopped there, the article would have been little different from others published earlier; however, it continued by saying that the Chinese have no respect for American law, and suggested that "while we would never uphold or advocate the application of mob law, even to a Chinaman, we should not criticize the action

too harshly if a committee of prominent citizens were to wait on the keepers of the opium dens and order them to leave the city." The editorialist was aware that opium was smoked outside of Chinatown; however, he claimed that the narcotic could only be purchased there. He advocated closing the dens as the only way to end the nuisance of opium, stating "we should not object to a peaceful but determined course outside the strict letter of the law for the attainment of the end in view." The action, in his opinion, should be taken up by "a committee of prominent citizens" because the police were, apparently, unable to control the situation.⁵⁵ Despite attempts by the police, the journalists remained disgruntled by the lack of enforcement of the city ordinance.

By February 1881, the notion of mob law trying to end smoking-opium in Virginia City spread to Reno, but went a step further. Where the *Territorial Enterprise* only suggested mob action, some of the citizens of Reno disguised themselves and raided Reno's Chinatown in an attempt to locate and eliminate its dens and catch the smokers. Most of the Anglo-American smokers had been forewarned, as the members of the mob were apparently only interested in terrorizing the Chinese proprietors of the resorts. Although Reno's *Nevada State Journal* berated those "who favor mobocracy" and those who raided the dens, the events were a reminder of the *Territorial Enterprise's* call for mob action only three months earlier.⁵⁶

The interplay among the communities that dealt with the opium problem began several years before the mob incidents of 1880 and 1881. Nevada newspapers often published articles about opium problems in other communities that offered the same warnings and demands for police action that the Virginia City publications did. For example, on May 20, 1877, the *Territorial Enterprise* reprinted an article from the May 16 *Eureka Sentinel* that discussed a raid on the local dens that failed, because the Chinese had managed to convert the dens into joss houses—Chinese houses of worship—before the officers could get there. The article concluded by expressing the desire that "the officers will continue their raids until the abominable practice is broken up altogether in our midst."⁵⁷ In January 1878, the *Territorial Enterprise* reprinted an article from Winnemucca's *Silver State* that discussed the arrest and punishment of four Chinese men for operating a den. The article went on to explain that a Chinese man from Rye Patch was murdered by other Chinese men for informing on the operators of the den.⁵⁸ Sometimes the news from other communities was just reports of Chinese men being sentenced or taken to the Nevada State Prison for violating the opium statutes.⁵⁹ The fact that the *Territorial Enterprise* printed the information reflects an awareness that the opium problem went beyond Virginia City's borders.

Virginia City was not alone in its call for police action against opium smoking. Many column inches of space in the newspapers of, for example, Elko, Winnemucca, Eureka, Carson City, and Reno were devoted to demands for the police to solve the opium problem. In February 1879, the *Reno Evening*

Gazette complained that the city's police exhibited a "WOEFUL NEGLECT ON THE PART OF THE OFFICERS" [emphasis in original] and that "it is passing strange that the officers do not take some steps to enforce the law against the Pagan dealers in this living death."⁶⁰ In general, the complaints remained the same as Virginia City's: the police made few arrests, the police allowed the opium dens to operate, and the police needed to save Anglo-Americans from the "pestilential hovels."⁶¹ Also, as in Virginia City's press, these other newspapers praised the police for their actions when the occasion permitted. Journalists called attention to the arrest of violators of the smoking-opium laws, as well as to sting operations that occurred in their towns.⁶²

Despite the pleas by the press and the efforts of the police in Virginia City, as well as in other Nevada communities, the smoking-opium problem continued. In 1880, the *Tuscarora Times-Review* found four dens "running in full blast," while the next year, the *Territorial Enterprise* reported finding "no less than a dozen places in Chinatown where opium smoking is carried on."⁶³ The police tried their best to respond to the needs of the city's residents and the demands of those who dictated the moral standards of the community despite the fact that they were still learning how modern police forces operated.

As opium smokers were docile and rarely caused trouble while under the influence of the narcotic and opium dens largely remained in Chinatown away from the Anglo-American residents of Virginia City, the police likely believed that there was no need to deal with them in the same manner as, for example, thieves. For a small police force in a western city that had a great deal of money coming and going, the possibility of the destruction of the industrial strength of the United States by a few members of the sporting fraternity probably did not weigh heavily on their minds. Yet, as city officials, the police learned to respond to the needs and demands of the community they served. When the journalists believed that smoking opium was an evil and the city could do without it, the police responded by getting rid of the vice, at least temporarily. Corruption, too, may have played a role in the lack of enforcement of the opium laws. Perhaps the den proprietors paid protection money to the police to avoid being bothered with arrests and a disruption of business. That, however, is unclear. More likely, the police treated the opium dens as law enforcement treated other vice operations: If they remained in their own communities and did not bother upstanding citizens, then the police would leave them alone. In effect, the opium dens and smokers became invisible and the police did not need to bother them. Be that as it may, the police served their communities and responded to calls for their assistance as the city's journalists and upper classes demanded. They did the best they could considering their lack of training and experience.

NOTES

¹"The Death Smoke," *Nevada State Journal* (8 August 1876), p. 1, col. 1.

²Laurence M Friedman, *Crime and Punishment in American History* (New York: Basic Books, 1993), 3-5, 8, 11.

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⁸Diana L. Ahmad, "The Campaign Against Smoking Opium: Nevada Journalists as Agents of Social Reform, 1875-1882," *Nevada Historical Society Quarterly*, 46:4 (Winter 2003), 246.

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¹⁴Frank Richard Prassel, *The Western Police Officer: A Legacy of Law and Order* (Norman: University of Oklahoma Press, 1972), 25; Friedman, *Crime and Punishment*, 4, 125-26, 135.

¹⁵Friedman, *Crime and Punishment*, 127, 130-31; Thomas J. Fleming, "The Policeman's Lot," *American Heritage*, 21:2 (February 1970), 7, 9.

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²²Fosdick, *American Police Systems*, 82; Senna and Siegel, *Introduction to Criminal Justice*, 189; Fleming, "Policeman's Lot," 12.

²³Fosdick, *American Police Systems*, 70-71; Emsley, *Policing and Context*, 111-12; Friedman, *Crime and Punishment*, 149.

²⁴Prassel, *Western Peace Officer*, 32, 44; Jordan, *Frontier Law*, 159.

²⁵Kinnersley, "Virginia, Nevada, 1859-1890," 80, 84-85, 97; Prassel, *Western Peace Officer*, 46; "An Act to Reincorporate the City of Virginia and to provide for the government thereof, and to repeal all other laws in relation thereto," (3 March 1877), J. H. Graham, comp., *Revised Ordinances of the City of Virginia, County of Storey, State of Nevada* (Virginia, Nev.: Enterprise Steam Printing House, 1878), 2-3, 16-18.

²⁶City Charter, 1877, Sections 17 and 28, Graham, *Revised Ordinances of the City of Virginia*, 10, 16.

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³¹"An Ordinance for the prevention and punishment of offenses against the peace, good order and health of the city of Virginia and the people thereof," approved 20 January 1878, Graham, *Revised Ordinances of the City of Virginia*, 98-103.

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³⁴"An Ordinance confining the limits of and regulating houses of ill-fame," approved 30 June 1875, Graham, *Revised Ordinances of the City of Virginia*, 111-12; Sec. XVII of "An Ordinance to revise, compile and amend the ordinances of the city of Virginia, to repeal certain ordinances, to amend certain ordinances, and to declare what are valid and subsisting ordinances," approved 29 January 1878, Graham, *Revised Ordinances of the City of Virginia*, 128; Huffaker and Flanningham, *Ordinances of the City of Virginia and Town of Gold Hill*, 68-69. See also, City Charter, An Act to reincorporate the city of Virginia and to provide for the government thereof, and to repeal all other laws in relation thereto, Sec. 9, approved 2 March 1877, Graham, *Revised Ordinances of the City of Virginia*, 10-12.

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Nevada Responds to the “Yellow Peril,” 1909-1924

LANCE MUCKEY

The real enemies of peace are the agitators of the Asiatic Exclusion League, the yellow journalists, and the yellow politicians, who, forgetting their duty to God, their country, and to their fellow men, have attempted to use this question to further their own political fortunes ... in a state [California] gone mad on this question.

— Earl S. Parker, to Nevada Governor Emmet Boyle, May 26, 1921.

I believe that the Oriental does not Americanize. I have never seen an Americanized Japanese. There is more danger in permitting deep-seated ill-will to grow out of a thoroughly repugnant contact between Americans and Japanese than exists in the crude diplomacy of the Jingo press and the politicians who reflect public sentiment ... The anti-Asiatic sentiment on the Pacific Slope dates back to former days. It is a condition — not a theory. If it had not crystallized long ago we would, to-day, have a standard of living ... far from an American standard. You will know more about the question when you have lived next door to it longer.

— Nevada Governor Emmet Boyle, to Earl S. Parker, May 31, 1921.

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Between 1913 and 1930, states across the American West passed alien land laws that attempted to bar "aliens ineligible for citizenship," especially Japanese, from owning land. This was the nativist response to the supposed "Yellow Peril" that these immigrants represented. The seeming exception to this demonstration of state xenophobia was Nevada, which never adopted statutory legislation prohibiting Japanese ownership of real property within the state. Still, this issue did indeed haunt the chambers of the Nevada legislature for fifteen years. In 1924, the state's lawmakers chose the unique approach of creating a *de facto* alien land law through an amendment to the state constitution that prohibited foreigners from land ownership. Upon securing this minimal accomplishment, the legislature seemed to abandon all interest in the matter.

On November 4, 1924, amid little fanfare, a tiny majority of those Nevadans voting on ballot *Question No. 2* approved an amendment that abolished Article 1, Section 16, of the Nevada Constitution. This provision, granting the foreign-born the same property ownership rights as native-born citizens, had stated, "Foreigners who are, or may hereafter become, bona-fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens."¹ The amendment overturning the rights of immigrants to own real estate was the legislature's answer to an imagined "Japanese problem," wrought by the 750 or so Japanese who resided in the Silver State during the early 1920s. This obscure constitutional amendment is unique in the annals of ineligible alien land laws in the western United States as the only example of legislation enacted through constitutional rather than statutory means. The passage of this amendment created a *de facto* alien land law in Nevada and removed the constitutional barriers preventing further development of *de jure* alien-land-law legislation. For unknown reasons, the legislature never passed the necessary statutory law specifically prohibiting Japanese ownership of real property in Nevada. Because of the absence of this legislation, scholars have largely ignored this unpleasant chapter of Nevada's legislative history.²

A JAPANESE QUESTION IN NEVADA?

Nevada's ineligible-alien amendment was not the first attempt to restrict the civil liberties of Asians in the state's history. Chinese immigrants faced the earliest discriminatory laws, dating from at least 1859, while Nevada was still part of the Utah Territory. These included local prohibitions against Chinese ownership of mining claims and the use of racial covenants to force Chinese into segregated housing in some communities. In addition to these ordinances, in 1861, the territorial legislature approved a miscegenation law that prohibited a white person from marrying or cohabitating with an Indian, Chinese, or Negro. The following year, the legislature introduced a Chinese Capitation Tax Bill intended to levy a four-dollar-per-month tax on all Chinese residing in the territory. This tax never became law, however, only because it infringed upon the provisions of a treaty between the United States

and China. In 1879, Nevada resurrected and passed a bill initially proposed in 1861 to bar Chinese from owning real estate. Ironically, in *State of Nevada, Ex Rel. Fook Ling v. C. S. Preble* (1884), the Nevada Supreme Court determined that this prohibition against Chinese ownership of real property violated two sections of the state’s constitution. Yet these inconsistencies bothered neither Nevada’s white lawmakers nor other judges until 1947, when the legislature amended the *Act to Authorize and Empower Aliens and Non-resident Persons and Incorporations to Take, Hold, Enjoy, and Acquire Real Estate in the State of Nevada* by dropping the words “except subjects of the Chinese Empire.”³

With this history of racially motivated discriminatory legislation, it should come as no surprise that Nevada legislators would debate alien land laws during the 1910s and 1920s, as neighboring states were doing. What is hard to comprehend is what they hoped to gain. Simply put, Nevada lacked a large Japanese population, and those who lived in the state posed no economic or social threats to the white population.⁴

Census data indicated that between 1890 and 1920, few Japanese lived in Nevada (Table 1). There are several possible reasons for this. The first is that whites were so overtly hostile to the Japanese that this discouraged their settlement in the state. Making that scenario unlikely is the lack of evidence of the intense kind of anti-Japanese agitation in Nevada that was found in California. Such agitation might have included numerous articles in Nevada newspapers expressing outrage over the state’s “Japanese problem,” or a well-organized anti-Japanese movement, such as the Asiatic Exclusion League of San Francisco (AEL), operating throughout the state rather than in just a few cities, and the passage at an earlier date of more anti-Japanese legislation.⁵

TABLE 1
POPULATION OF JAPANESE AND CHINESE IN SELECT STATES, 1890-1920.⁶

<i>Year</i>	<i>1890</i>		<i>1900</i>		<i>1910</i>		<i>1920</i>	
	Chinese	Japanese	Chinese	Japanese	Chinese	Japanese	Chinese	Japanese
Ariz.	1,170	1	1,419	281	1,305	371	1,137	550
Calif.	72,472	1,147	45,753	10,151	36,248	41,356	28,812	71,952
Colo.	1,398	10	599	48	373	2,300	291	2,464
Nev.	2,833	3	1,352	228	927	864	689	754
Ore.	9,540	25	10,397	2,501	7,363	3,418	3,090	4,151
Wash.	3260	360	3,629	5,617	2,709	12,929	2,363	17,387
Wyo.	465	0	461	393	246	1,596	252	1,194

This does not imply that these indicators of racial prejudice were missing in Nevada during the early decades of the twentieth century. They were present. Newspapers carried xenophobic articles with headlines such as "Insane Japanese are Soon to be Deported," "Undesirables to be Exiled," and "Japs in Hawaii Soon to Control." An unknown writer for the *Tonopah Daily Sun* framed the western nativist argument against Asian immigration precisely when he claimed that northern Europeans made the best Americans, while southern Europeans did not, and Asians could not because they were "distinct in type, in thought, in every way. And their allegiance is to an emperor beyond the sea." In March 1910, a Mr. McMahon (first name unknown), acting as spokesman for the Anti-Japanese Laundry League in Reno, a group loosely affiliated with the AEL, boasted of forcing the Japanese-owned Nevada Steam Laundry out of business. Still, if Nevada's white citizens held such overtly anti-Japanese attitudes, the legislature might have been expected to react by passing specific laws against the Japanese. Instead, as their methods of discouraging Japanese settlement in the state between 1909 and 1923, the Nevada legislature chose only to rewrite the state's miscegenation law, submit a strongly worded anti-Japanese resolution to Congress, and propose an amendment to the state constitution prohibiting Japanese ownership of land, but without the accompanying statutory legislation to support it.⁷

The more plausible explanation for the low number of Japanese in Nevada is the lack of economic opportunity. As the twentieth century began, Nevada was just emerging from a twenty-year depression caused by national monetary policies, the panics of 1873 and 1893, and the depletion of ore deposits. The resulting economic hardships resulted in an exodus from Nevada that reduced the state's population to just over forty-two thousand by 1900. Within a few years, though, new gold and silver discoveries in Nye and Esmeralda counties and copper mining in White Pine County spurred the economy to new heights. Still, at that time, Nevada's economy relied almost entirely upon a single industry—mining. The state lacked any other large-scale industries, and ranching rather than farming was the principal form of agriculture.⁸

Since many early Japanese immigrants to the United States initially gravitated toward agricultural occupations, they found few economic opportunities in Nevada. Still, some tried their hand at farming, despite the state's aridity: Nevada was the driest state in the union and in 1920 only one quarter of its available farmland was suitable for growing crops. The earliest record of Japanese involvement in commercial agriculture in the Silver State dates to 1910, with the founding of the Nevada Sugar Company at Fallon. The company employed a small number of Japanese laborers to grow sugar beets. In 1914, Yonema (Bill) Tomiyasu arrived in the Las Vegas valley and began raising alfalfa, melons, and onions. Other attempts by Japanese to grow melons in communities such as Overton and Logandale around that time failed. As late as 1924, Japanese farmers in the Fallon area also grew celery and winter lettuce.⁹

The major employers of Japanese between 1900 and 1920 were railroads, the Nevada Consolidated Copper Company (NCCC) near McGill, and the Liberty Pit Mine at Ruth. During 1906, the first sizable contingent of sixty Japanese laborers arrived in the state to help build the Nevada Northern Railway from Cobre to Ely. Soon after the Japanese arrived, the line was completed and some of them retained employment with the railroad as section hands. There is also evidence that numerous Japanese began working in the NCCC mines that year.

During 1912, labor unrest at the Guggenheims' Bingham Canyon copper mine in Utah spread to the family's mines at McGill and Ruth, resulting in a short but violent strike. The company fired its ethnic southern European miners, believed responsible for the unrest, and replaced them with more than one hundred Japanese. Until about 1920, the number of Japanese employed at each mine averaged between seventy and one hundred men and included some women and children. The final occupation in the state that employed appreciable numbers of Japanese, at least in Reno, was the domestic servant industry.¹⁰ With so few avenues for employment, Nevada's Japanese population remained small during the early decades of the twentieth century.

NEVADA'S EARLY ATTEMPTS AT ANTI-JAPANESE LEGISLATION

It is impossible to argue that there was ever a Japanese problem in the Silver State. Their small numbers in Nevada posed no economic, political, or social threat to whites. The state's climate precluded the development of strong agricultural or timber economies and helped limit Japanese settlement, in turn lessening the possibility that they would enter into other employment in large numbers and possibly underbid white laborers. Politically, the Japanese were powerless since the courts routinely upheld long-established precedents that denied them citizenship and the right to vote.¹¹

Socially, whites perceived the Japanese as dangerous. Early in the twentieth century, the popularity of race theory and eugenics reached their zenith. Some whites feared that Asians threatened the supposed purity of the white race. In March 1910, this fear surfaced in Nevada when a judge in Goldfield married California residents N. Y. Inuto and Vivian Blackwell—the first known interracial marriage between a white person and a Japanese person in the state. The public was outraged, especially when, within a year, two other interracial couples from California applied for marriage licenses in the Silver State. The second couple to receive a marriage license at Goldfield, George Nasaki and Juliet Schawam of Los Angeles, on March 15, 1910, could find no official who would marry them. To protect them from an angry mob, a deputy sheriff escorted them to a train bound for Tonopah. They fared no better there and eventually wed in New Mexico. The third couple, H. H. Beckon and Miss L. A. Frederick of San Francisco, proved unable to secure a license in Reno on December 23, 1910,

until they employed an attorney to assist them. The couple then could find no judge to marry them, and finally a minister of the local First Methodist Church performed the service.¹²

When the Nevada Legislature met the following year, it tried to add the Japanese to those deemed unsuitable to marry whites under the state's miscegenation law. Despite the indignation that some whites expressed toward these interracial marriages, the measure failed to pass. An examination of the *Journals of the Assembly and Senate* reveals no reason for this, and the lack of notes or minutes of legislative committee meetings and floor debates from the period compounds the problem. Not until 1919 did the Legislature revise Number 2472, Section 1, of the "*Act to Prohibit Marriages and Cohabitation of whites with Indians, Chinese, Mulattos, and negroes [sic]*" to read, "It Shall be unlawful for any person of the Caucasian or white race to intermarry with any person of the Ethiopian or black race, Malay or brown race, or Mongolian or yellow race, within the State of Nevada."¹³

During the 1911 session, when the first miscegenation law was defeated, Nevada's lawmakers passed a previously introduced, strongly worded resolution to Congress against continued Japanese immigration:

Whereas, Immense hordes of Japanese and Hindus are invading our country to the detriment of our people and the very existence of our nation by reason of their un-American principles and antagonism toward our form of government, inspired by an avaricious motive of displacing American labor by reason of working for a scale of wages utterly impossible for any white laborer to exist upon in [a] manner commensurate with civilized conditions, thereby competing against white labor and engendering in countless instances misery and suffering upon the dependents of American workingmen; and

Whereas, A continuation of the aforesaid immigration unimpeded by more stringent immigration laws will create untold and indescribable complications and trouble upon this generation, and generations yet unborn, within the boundaries of this great republic; therefore, be it

Resolved, That we most emphatically condemn such laws as allow the aforesaid immigration, and we recommend that such laws be passed as will effectually stop the indiscriminate immigration of such nationalities hereinbefore mentioned; and be it further

Resolved, That [sic] copies of this resolution be at once forwarded to the speaker of the house of representatives and to the president of the senate, and to our United States senators and congressmen.¹⁴

For the Legislature to draft such a document is curious, especially with so few Japanese and probably even fewer adherents of Hinduism living in the state. The legislature probably intended to support California's clarion call for an end to Japanese immigration. Why the Silver State would aid California in

its attempts to discriminate against the Japanese, given the much smaller Japanese population in Nevada, remains a mystery. The two states shared a history of close political and economic ties that dated from the early 1860s. This history might have influenced the development of anti-Japanese attitudes among Nevada's legislators and inspired them to harness the nativist impulses of their neighbor in the hope of creating a unified front for regional political purposes.¹⁵

Two groups spearheaded organized opposition to Japanese immigration on the West Coast: the press and labor unions. Major West Coast papers such as the *San Francisco Chronicle* and *San Francisco Bulletin* accused the Japanese of the basest conduct and some working-class segments of their white subscribers accepted these distortions at face value. Yet the main impetus for anti-Asian, and particularly anti-Japanese, agitation along the Pacific Coast between 1890 and 1924 arose from white, urban, blue-collar and unionized workers.

Although events such as Chicago's 1886 Haymarket Square Riot eroded popular support for the labor movement throughout much of America, organized labor remained a potent political force in the major cities of the West Coast between the 1890s and the 1910s. The Panic of 1893 cost tens of thousands of people their livelihoods across the nation and, with immigration from east and west still an issue, served to increase nativist sentiment as whites sought scapegoats for their economic troubles. A nationwide increase in prices followed on the heels of this depression and increased the cost of living between 1897 and 1913 by 35 percent, but wages for unorganized blue-collar workers increased more slowly, contributing to a marked decline in their standard of living. In response, or out of desperation, between 1897 and 1911, almost two million workers joined labor unions across the country, resulting in the largest growth of unionism in the United States to that point.¹⁶

The major beneficiary of this increased interest in unions was the American Federation of Labor (AFL), whose membership grew from about two-hundred-fifty thousand in 1898 to almost two million on the eve of World War I. The AFL leadership's opposition to Asian immigration made this particularly unfortunate for the Japanese living along the Pacific Coast. In 1900, the next wave of agitation against Japanese immigration began when the San Francisco Labor Council held mass meetings to support extending Chinese-exclusionary legislation to include Japanese. Four years later, during a national conference held in the city, the AFL called on Congress to include Japanese and Koreans under the umbrella of Chinese-exclusion laws. In 1905, the first large-scale organized anti-Japanese movement began with the formation of the Asiatic Exclusion League, an offshoot of the San Francisco building trades union.¹⁷

The AEL's objective was to stop all Asian immigration into the United States. The organization was equally committed to excluding Indians, Pacific Islanders, Chinese, and any other non-white immigrants. Its propaganda stated, "The little brown men from the land of the Rising Sun are still invading our shores in droves of thousands, and the advance army is being followed by a motley multitude of

Hindoos [sic], Koreans, Manchurians, Mongolians, and Malays." AEL members used the terms Oriental (i.e., East Asian) and Asian interchangeably, even though these encompass different geographic regions and ethnic groups. To gain support from the widest possible audience, AEL leaders Olaf A. Tveitmoe (secretary of the San Francisco Building Trades Council), E. B. Carr, and A. E. Yoell encouraged participation from "all central labor bodies, mercantile associations, clubs, and other civic bodies." This tactic unified the organized white working class of San Francisco and other unionized workers across California against the Japanese—indeed, the membership of the AEL's Executive Council consistently included other local and state union leaders.¹⁸

At one point, the AEL claimed more than 1.1 million supporters across the United States. Between 1908 and 1911, it established chapters in Washington, Oregon, Nevada, Idaho, Colorado, Montana, Nebraska, and the Canadian province of British Columbia. Yet the branches outside California were small-scale affiliates that made no significant contribution to the AEL's international anti-Japanese campaign.¹⁹

The AEL used three methods to disseminate its anti-Asian message. First, it tried to sway western states to approve its exclusionary rhetoric in order to lobby Congress as a unified block for the passage of federal anti-Asian legislation. Second, members volunteered their time to travel to surrounding communities and states to lecture on the perceived evils of the "Yellow Peril." Finally, the organization published an immense amount of anti-Asian propaganda through its ties to San Francisco union journals and sent this material to labor unions and civic groups around the country, including those in Nevada.²⁰

The Asiatic Exclusion League's success in stoking anti-Asian sentiment across the nation is unclear. Most historians play down the AEL's role in the western United States and view it as a localized San Francisco movement. For instance, Eldon R. Penrose argues that, over-all, the AEL was ineffective since it never obtained the political support in California to pass its exclusionary legislation. In addition, he notes that the organization collapsed in 1913, after Tveitmoe's imprisonment for his role in bombing *The Los Angeles Times's* offices three years earlier. Roger Daniels labels the AEL a "paper organizational offshoot of San Francisco building trade unions" and argues that its importance was simply as the first of many "anti-Japanese pressure group[s]." John Higham lumps the AEL with other anti-Japanese organizations active on the West Coast early in the twentieth century, while Paul R. Spickard identifies the AEL as a group of local "thugs" who resorted to picketing Asian establishments and random beatings of Japanese. By contrast, Alexander Saxton acknowledges the AEL as the "main organizational vehicle for anti-Japanese agitation," but argues that it was more important in strengthening the union movement in California by serving as its "unifying center."²¹

Whatever the case, the AEL seems to have been successful in spreading its xenophobic message far beyond San Francisco. In its eight-year existence, the organization churned out immense quantities of printed propaganda. The number of leaflets, pamphlets, letters, petitions, and press releases that the league sent to

politicians, individuals, organizations, magazines, and newspapers throughout the country may well have exceeded half a million copies. This continuous barrage of disinformation may have made the question of Japanese immigration seem more urgent than it was. Indeed, outside influences, perhaps the AEL's anti-Japanese propaganda, appear to have contributed significantly to the Nevada Legislature's efforts to enact an alien land law.²²

In addition, as the *Ely Weekly Mining Expositor* suggested, the fact that the California, Idaho, and Oregon legislatures were considering anti-Japanese legislation in 1909 made it an important regional political issue. This alone might have sufficed for Nevada to enter the fray with the intent of "holding American soil for Americans." Since it would create a solid block of Western states that wanted restrictions on Japanese immigration, Nevada would likely have benefited politically from supporting this initiative.²³

Finally, white Nevadans may have supported some type of anti-Japanese measure because they suspected that the state contained a larger population of Japanese than it did. The Southern Pacific Railroad crossed Nevada's northern tier, including Reno, Lovelock, Winnemucca, Battle Mountain, Palisade, Elko, and Wells. As either local centers of commerce or county seats, all of them would have attracted whites from other areas of the state to conduct business. The appearance of Japanese in various stages of transit across Nevada, or the presence of Japanese railroad work gangs operating in these towns, may have made it appear that a substantial community of Japanese lived in the Silver State.

While Nevada's anti-Japanese resolution was purely symbolic, responses to it from eastern states demonstrate that the anti-Japanese hysteria in the West posed a potential threat to the nation. In 1909, the year the resolution was introduced, the *Washington Post* published an editorial that lampooned this measure and warned that continued anti-Japanese agitation might eventually lead to warfare between the United States and Japan:

It is a savage thrust which Nevada delivers to Japan from behind the ramparts of the Sierra Nevadas. The wrath of Nevada over California's troubles is something terrible to see and hear. Nevada's legislature rises with protruding chest and horrid puffing cheeks to hurl back upon Japan the taunt that flames to war.... It becomes a serious matter, indeed, when a proud, populous commonwealth like Nevada...commits its 7,123 able bodied citizens to the dread shock of war in behalf of its neighboring state.... The state had developed in population and fighting spirit until it is one of the terrors of the earth.... Let Japan beware! It was easy enough to fight Russia.... But it would be a different matter to tackle Nevada.

At the same time, southern states seemed too concerned with their own internal black-and-white racial issues to have been overly interested in events in the West. As the *Ely Weekly Mining Expositor* pointed out in an editorial,

"The south contends, and logically, that the Japanese and the negro [*sic*] are on entirely different planes, and must be handled accordingly."²⁴

Between 1911 and 1919, the Nevada Legislature was strangely quiet on the Japanese issue. Aside from rewording an existing miscegenation law, which went into effect in 1919, to include Japanese, it took no other discriminatory steps against the Japanese. Several possibilities exist for this apparent inactivity. First, after California passed its ineligible-alien land statute in 1913, Nevada's lawmakers may have assumed that the crisis was over or were waiting to assess the California law's impact on the Japanese in that state before passing legislation of their own. Alternatively, the Japanese issue might never have been that important to most Nevadans to begin with, and the state's lawmakers simply let the matter drop, thinking that California's land law would settle the issue. More likely, though, the events of World War I interrupted the momentum of anti-Japanese agitation throughout the western United States and postponed passage of further legislation.²⁵

ANTI-JAPANESE SENTIMENT WAS ALIVE AND WELL IN NEVADA

On the eve of the entry of the United States into the Great War, the nation's virtually unrestricted immigration policies ended when President Woodrow Wilson signed the Immigration Law of 1917, which created an Asiatic "barred zone" and excluded most Asian laborers from future immigration. That year, Arizona passed its own alien land law, based on California's model. The subsequent armistice and the Bolshevik Revolution ushered in a new era of xenophobia in America toward immigrants, this time fueled by the ideals of nationalism, patriotism, and conformity honed under the wartime "100 per cent Americanism" movement.²⁶

In this racially charged atmosphere, anti-Japanese hysteria resumed with renewed vigor. Once again, California newspapers led the attack, arguing that Japanese were unable to assimilate into American society and therefore dangerous because they supposedly had a higher reproductive rate, took whites' jobs, owned farmland, and attended Japanese language schools. Nevada newspapers also fueled the fires. In early 1919, the *Reno Evening Gazette* capitalized on the murders of three Chinese officials in Washington, D.C., to urge the country to gain a better understanding of the West's problem with Asians. It implied that the Chinese, and by extension all Asians, were uncivilized. The following year, the same publication printed an article that stated, "Nevada is a state of white people and we do not invite, nor do we want the little yellow man [the Japanese] acquiring property within our borders."

In 1920, California voters passed an initiative to amend the Alien Land Law of 1913 and make it theoretically impossible for aliens ineligible for citizenship (i.e., Asians) to lease or hold land in guardianship for minors, and punished

attempts to evade the law. The measure became law, by a vote of 668,483 to 222,086, a better than 3 to 1 margin. Its passage set events in motion in Nevada that ultimately culminated in the amendment to the state's constitution in 1924, to deny foreigners the right to own property.²⁷

The apparent intent behind California's ineligible-alien land laws was to drive the Japanese from the state by making their living conditions as difficult as possible. After California passed its new land law, two Japanese, Juichi Kito and Kensuke Ito, moved from California to the Fallon area and purchased a small ranch. Infuriated local whites began a campaign to exclude the Japanese. The Churchill County Chamber of Commerce even went so far as to post signs at the Fallon railroad depot reading "Japs Not Wanted Here." In early March 1921, one hundred eighty whites attended a meeting in Fallon to solve their "Japanese problem." They decided to petition state and federal representatives to enact exclusionary legislation against future Japanese immigration and initiate a boycott of all Japanese-owned establishments and all businesses that employed Japanese—this all in an effort to drive out the town's twenty-five Japanese residents. The *Fallon Standard* reported that during this meeting, "Many spoke for and against the Nipponese and the sentiment was emphatically divided. Starting at nowhere they arrived at nowhere and a confounding and vexatious question was not clarified." Whether the proposed boycott succeeded is unknown, but later that year, white landowners in Churchill County instituted a policy of leasing land to Japanese farmers for up to ninety-nine years, rather than selling them property outright.²⁸

Perhaps the overreaction to the two Japanese landowners in Fallon arose from plummeting agricultural prices across the United States after World War I and fears of increased competition in local markets. In any case, after the initial Japanese scare in Fallon subsided, Nevada's newspapers continued to demand action. In December 1920, a *Reno Evening Gazette* writer admonished the state legislature for not taking action against the Japanese the previous year and called for a new "law to block the growth of the Japanese population and prevent Japanese from becoming owners of real property in Nevada," claiming that there was widespread support for such a measure in Washoe and Elko counties. Governor Emmet D. Boyle and Attorney General Leonard B. Fowler eagerly answered the demands for exclusionary legislation by continuing their previous efforts to bar the Japanese from owning land in the state.²⁹

Undeniably, Boyle shared popular prejudices against persons of Asian descent. In surviving correspondence with others on the Japanese issue, Boyle made these feelings clear and an examination of his papers reveals a deep-seated hatred of the Japanese and his personal commitment "to a policy of complete exclusion." Nor did his attitude toward the Japanese waver during his term as governor. In one letter, Boyle wrote with pride on behalf of all Nevadans as he explained to the Harvard Law School researcher A. F. Shafkey that "an almost unanimous sentiment for the exclusion of the Japanese exists.... The prejudice

of our citizens here is as great as that of the Californians." Less is known about Fowler, but the *Reno Evening Gazette* referred to him as "the pioneer of the anti-Japanese movement in Nevada."³⁰

The fragmentary nature of the documentation relating to the efforts of the Nevada Legislature to pass an ineligible-alien land law makes it difficult to trace its progress with complete certainty. Still, enough evidence exists to piece together the general outline of its development. On March 13, 1919, Fowler expressed his official opinion on a proposed *Senate Bill Number 22* in a letter to Boyle entitled "United States Treaties With Foreign Governments—State Statutes Conflicting Therewith Invalid." According to Fowler, the proposed bill would violate no federal laws that dealt with an alien's right to hold, transfer, or inherit real property. Therefore, should the governor sign it, it would become law. The attorney general's major concern was that the courts might use Article 1, Section 16, of the state constitution, which dealt with the rights of foreigners, to overturn the law. He suggested repealing this amendment before proceeding further.

Unfortunately, the text of this tentative *Senate Bill Number 22* is missing; the official version of *Senate Bill Number 22* that the legislature adopted in 1919 dealt with water rights. However, considering the title of Fowler's letter to Boyle and its language, especially regarding the rights of foreigners to hold land under the state constitution, this proposed legislation clearly was an ineligible-alien land law. At that time, Nevada law stipulated that all bills must receive three readings in both houses of the Legislature and be printed for public inspection before becoming law. An examination of the *Journals of the Assembly and Senate* for 1919 reveals no reference to any type of alien land law legislation. The bill that Fowler discussed apparently never reached the Legislature, which would explain why only fragmentary documentation exists.³¹

This leaves unanswered questions. First, according to the *Reno Evening Gazette*, legislators discussed anti-Japanese legislation during the 1919 session of the Assembly. Aside from the miscegenation law, what these measures were is unknown since neither the *Journal of the Assembly* nor any Nevada newspaper discusses them in detail. The original *Senate Bill Number 22*, the alien land law, probably was one of these since the Assembly's support was necessary for it to pass. Second, who drafted the alien land law, and what provisions did it contain? The answers to these questions are unknown. If Boyle had a hand in drafting this legislation, which his feelings toward the Japanese and his request for the attorney general's opinion before the bill's introduction make highly possible, it may well have been restrictive and intended to prompt a legal challenge that would settle the matter once and for all. Finally, what became of this bill and why did it fail to reach the floor of the Legislature in a later session? Until a copy of the tentative *Senate Bill Number 22* on which Fowler provided his opinion in 1919 surfaces, the first two questions will remain unanswered.³²

However, there are possible conclusions for the third. Perhaps Nevada legislators never passed an alien land law because of the difficulty in first

amending the state constitution to rid themselves of the restrictions of Article 1, section 16. Under law, the state's legislators received pay only for a sixty-day biennial session during the early decades of the twentieth century. The date of Fowler's opinion, March 13, 1919, suggests that it was too late in that session to introduce a bill to amend the Constitution. Instead, they waited until 1921, when there would be enough time to submit the necessary bill and guide it through the legislative process.³³

During the 1921 session, both houses introduced different resolutions to amend the Constitution. *Senate Joint Resolution No. 2* was more complex since it altered the wording of the original section to read:

Foreigners who are, or may hereafter become, bona-fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens, except as otherwise provided by the laws of this State; *and also provided [sic]*, that foreigners who are ineligible to become citizens of the United States shall not hold, enjoy, possess, or inherit real property which is adapted to agriculture, horticulture, viticulture, grazing, or mining.

The proposal contains the clause "foreigners who are ineligible to become citizens." This clearly targeted the Japanese, although it could mean other Asians such as Filipinos, Koreans, and Chinese, since, at that time, they were all ineligible for American citizenship. The Senate unanimously approved this version, 17 to 0, and sent it to the Assembly for approval. This was as close as Nevada ever came to passing an easily identifiable alien land law.³⁴

In the Assembly, *Senate Joint Resolution No. 2* fared poorly in its original form. The Assembly simply wanted to remove the offending section of the Constitution. Its counterproposal, *Assembly Joint Resolution No. 6*, made this clear, "relative to amending article 1, of the Constitution of the State of Nevada by repealing section 16 thereof." The Assembly solved this problem by amending *Senate Joint Resolution No. 2* to read, "relative to amending article 1, of the Constitution of the State of Nevada by striking out section sixteen thereof." This Assembly then approved this document with a vote of 25 to 12 and returned it to the Senate for final approval.³⁵

Apparently, no one in the Senate was in the mood to argue with the Assembly's decision to remove Section 16 of the Constitution. The rewritten *Senate Joint Resolution No. 2* was unanimously accepted and entered into the *Statutes of Nevada* as:

Resolution No. 14—*Senate Joint Resolution, relative to amending article 1 of the constitution of the State of Nevada, by striking out section sixteen thereof.*

Resolved by the Senate, the Assembly concurring, That article 1 of the constitution of the State of Nevada be amended by striking out section sixteen (16) thereof.

Following the legal procedures necessary to amend the state constitution, both houses of the legislature re-read and re-approved *Resolution No. 14* during the 1923 session. The measure then went on the ballot at the next general election as *Question No. 2*, and was re-entered in the *Statutes of Nevada* under the same title. On November 4, 1924, the voters of Nevada approved *Question No. 2* by only 22 votes out of the 12,278 cast on the question, and Article 1, section 16, of the Nevada Constitution ceased to exist.³⁶

Oddly, the Nevada Legislature's attempt to bar Japanese from owning real property in the state ended abruptly after the amendment's approval. Again, the rationale is unclear. By 1923, Emmet Boyle and Leonard Fowler were out of office. Perhaps these two men really were the driving force behind the anti-Japanese movement in the state. After all, they did communicate officially between 1919 and 1921 on the mysterious proposed *Senate Bill No. 22* and may have contributed to the original version of *Senate Joint Resolution No. 2*.³⁷

Yet it is too easy to blame all of these events on Boyle and Fowler. There was active support in the Legislature for anti-Japanese legislation. Nevada lawmakers approved their anti-Japanese immigration resolution in 1911, rewrote the miscegenation law to include Japanese in 1919, and, during the 1921 and 1923 legislative sessions, approved the resolution to amend the state constitution. In addition, they adopted an "*Act to Promote Americanism in the Schools of the State of Nevada*" in 1923, which discriminated against no particular group, but promoted the idea of forced immigrant assimilation by making the study of American history and civics mandatory in all public educational institutions and required these schools to fly the nation's flag when in session. Indeed, it is doubtful that the prejudices held against the Japanese evaporated after the Constitution was amended, but the voters' response may have caused them to re-examine the Japanese question.³⁸

At the polls, a margin of twenty-two votes determined the success of *Question No. 2*. This was not the overwhelming landslide that Boyle predicted three years earlier. Almost five years separated the initial Japanese scare at Fallon and the 1924 ballot. Clearly, over time, whites decided that the Japanese were not a serious threat, and the results of the 1924 general election indicate this.

In that election, 26,679 Nevadans cast ballots. Slightly less than 47 percent, or 12,529, of them even bothered to vote on *Question No. 2*. Incredibly, the amendment passed with the approval of only 23.5 percent of all voters. The explanation for this low acceptance of the amendment might lie in the high number of white foreign-born residents, who in 1920 made up 20.7 percent of Nevada's population. They may have not voted for the measure, or voted against it, because they mistakenly believed it would adversely affect them by making it difficult for all immigrants to purchase real property in Nevada.³⁹

In addition, changes in immigration policy at the national level may have stopped Nevada legislators from continuing their attempt to pass an alien land law. In 1924, the United States Congress seemingly resolved the immigration controversy when it passed the Johnson-Reed Act, which placed tougher quotas on European immigrants and ended virtually all Asian immigration. Whatever the cause, the subject of alien land laws never again resurfaced in the Nevada Legislature.⁴⁰

CONCLUSION

Assessing early twentieth-century immigration, Robert H. Wiebe contended that the political leaders of the Anglo-Protestant tradition applied a blend of old and new tactics simultaneously—assimilation and exclusion. Indeed, the evidence for this argument abounds in the historical record. The creation of Chinese exclusionary legislation and an “Asiatic Barred Zone” demonstrated that white society distinguished between the immigrants it would tolerate and those it would not. As long as immigrants were white, attempts to assimilate them occurred through public education campaigns like the one in Nevada that taught students American history and values. Still, assimilation took time and might never prove truly successful. It also drained the scant financial resources of charitable organizations, states, and the federal government.⁴¹

Between the two policies, exclusion held the advantage since it relied on the then-popular pseudo sciences of eugenics and race theory to make categorizing immigrant groups easy and expandable. In addition, exclusion provided a quick fix to the problem of unwanted immigration with a seemingly permanent solution. It should come as no surprise, then, that Congress adopted the policy of exclusion. In 1921, Congress passed a temporary law to limit the flow of immigration. Quotas based on 3 percent of the nationality of the foreign-born population living in the United States in 1910 reduced the number of immigrants to three hundred fifty thousand per year and favored those from northern Europe.⁴²

The only notable opposition to the immigration laws of 1921 and 1924 came from big business and western commercial agricultural interests that needed the masses of unskilled labor supplied by unrestricted immigration. A brief economic downturn gripped the country from 1920 to 1922; when it ended, unemployment shrank and employers had to increase wages sharply to retain employees. The National Association of Manufacturers mounted a powerful lobbying campaign in the United States Senate to end restrictive immigration policies. The effort failed in the end, although it did delay Congress’s final decision to restrict immigration for two years.⁴³

The passage of the next immigration law, in 1924, placed a strict cap on immigrants because it assigned a national quota to all nations, except those in Central and South America, based on the 1890 census. The new law limited

immigrants to 2 percent of the foreign-born population present in America that year. In effect, this limited immigration to one hundred fifty thousand people per year or roughly 15 percent of the annual level before World War I. Again, northern Europeans received preferential treatment and accounted for two-thirds of the available quota.⁴⁴

The anti-Japanese agitation in the American West was only a small part of the larger nativist scheme to scrap unrestricted national immigration policy. It also added another level of unease over the immigration issue to the nativist mind. Industrialization created a demand for large supplies of cheap labor. This in turn concentrated immigrants in urban areas where factory jobs were located, and new immigrants clustered in ethnic neighborhoods, like New York City's "Little Italy," Chicago's "Packingtown," and San Francisco's "Chinatown." To white Americans looking in, assimilation seemed impossible under these conditions. A far simpler method was exclusion, especially if it allowed immigration of Anglo-Saxons to continue.

In the West, the 1924 immigration act represented the capstone of the anti-Japanese movement. After more than thirty years of anti-Japanese agitation, this act marked the end of Japanese immigration. Surprisingly, once Japanese immigration stopped, the western hysteria over their presence in America subsided until the attack on Pearl Harbor. More important, unlike the ineligible-alien land laws that numerous states adopted, the 1924 immigration act worked. Until 1965, the racially motivated national-origin quotas determined American immigration policy.

The alien land laws also help to explain the rationale behind Japanese internment during World War II. The Supreme Court upheld the legality of alien land laws on five separate occasions. This represented a "systematic and institutionalized racism" designed to strip the Japanese of their civil rights based on their ethnicity. Once accomplished, this reinforced the belief that the Japanese were a foreign body living within the dominant white society, and they became "members of a class less than worthy" of even the slightest protections of the rule of law.⁴⁵

The anti-Japanese hysteria that gripped the West between 1890 and 1924 also existed in the Silver State, although with less intensity than in California. Nevada's struggle to pass a constitutional amendment prohibiting foreigners ineligible for citizenship from owning land proves this. Furthermore, since no statutes exist that explicitly define the intent of this measure, it is no surprise that scholars overlook it for what it was: the prelude to, or perhaps even the Silver State's final interpretation of, an alien land law. Either way, this amendment never faced a challenge in the courts, making it impossible to test its scope or legality.

NOTES

¹*Nevada Constitution*, art. 1, sec. 16.

²Two scholars do identify this measure as an alien land law. Dudley O. McGovney, "The Anti-Japanese Land Laws of California and Ten Other States," in Charles McCain, ed., *Japanese Immigrants and American Law: The Alien Land Laws and Other Issues* (New York: Garland Press, Inc., 1994), 60; California State Board of Control, Report to Governor Wm. D. Stephens, *California and the Oriental: Japanese, Chinese, and Hindus* (Sacramento: California State Printing Office, 1922), 75-76.

³*Records* (n.p., n.d.), quoted in Eliot Lord, *Comstock Mining and Miners* (1883; reprint, intro. by David F. Myrick, Berkeley: Howell-North, 1959), 44; Russell M. Magnaghi, "Virginia City's Chinese Community, 1860-1880," *Nevada Historical Society Quarterly* 24:2 (1981), 155; J. H. Graham, *Revised Ordinances of the City of Virginia* (Virginia City: Enterprise Steam Printing House, 1878), 114 (quoted in Magnaghi, "Virginia City's Chinese"), 155. For an in-depth discussion of the passage of Nevada's miscegenation law through the legislative process, see Ruth Kretzler Billhimer, *Pawns of Fate: Chinese/Paiute Intercultural Marriages 1860-1920, Walker River Reservation Schurz, Nevada* (Master's thesis, University of Nevada, Las Vegas, 1995), 20-32; Nevada Legislature, M. S. Bonfield and T.A.W. Heady, compilers, *The Compiled Laws of the State of Nevada Embracing Statutes of 1861 to 1873 Inclusive* (2 vols., Carson City, 1871), I, 590; Billhimer, *Pawns of Fate*, 78; Nevada Legislature, *Statutes of the State of Nevada Passed at the Ninth Session of the Legislature* (San Francisco, 1879), 56: Article 1, section 1, deals with the inalienable rights of man stating that, "All men are by Nature free and Equal and have certain inalienable rights among which are those of enjoying and defending life and liberty; Acquiring, Possessing, and Protecting property and pursuing and obtaining safety and happiness"; *Nevada Constitution*, art. 1, sec. 16; James W. Hulse, *The Silver State: Nevada's Heritage Reinterpreted* (2d ed., Reno: University of Nevada Press, 1991), 298; *State of Nevada ex rel. Fook Ling v. C. S. Preble*, 18 Nev. 251, 2 P. 754 (1884); Nevada Legislature, *Statutes of the State of Nevada Passed at the Forty-third Session of the Legislature* (Carson City, 1947), 270. The state's miscegenation law remained in effect until March 16, 1959, when the legislature repealed *An Act to Prohibit Marriages and Cohabitation of whites with Indians, Chinese, Mulattos, and negroes* [sic] in full. Nevada Legislature, *Statutes of the State of Nevada Passed at the Forty-ninth Session of the Legislature* (Carson City, 1959), 216-17.

⁴*Nevada, Alien Ownership of Real Property, Compiled Laws, 1929*, Vol. III (1930), sec. 6365; California, *Statutes, 1913*, 206-208; California, *Statutes, 1921*, lxxxiii-lxxxvi; California, *Statutes, 1923*, 1020-25; Arizona Legislature, *Acts* (1917), 56-58; Washington, *Session Laws, 1920*, 156-60; Oregon, *Constitutional Amendments and Laws Enacted* (1923), 145-50; Idaho, *General Laws* (1923), 160-65; Montana, *Laws* (1923), 123-26; Kansas, *Session Laws, 1925*, 277-81.

⁵John Higham, *Strangers in the Land: Patterns of American Nativism*, 2002 ed. (New Brunswick: Rutgers University Press, 1955); Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California*, rev. ed. (Berkeley: University of California Press, 1995); Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill: University of North Carolina Press, 1995); Matthew Frye Jacobson, *Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876-1917* (New York: Hill and Wang, 2000). For an in-depth discussion and analysis of San Francisco's Asiatic Exclusion League, see Richard Austin Thompson, *The Yellow Peril, 1890-1924* (New York: Arno Press, 1978); Eldon R. Penrose, "California Nativism: Organized Opposition to the Japanese, 1890-1913" (Master's thesis, Sacramento State College, 1973); Joseph Cellini, ed. *Proceedings of the Asiatic Exclusion League, 1907-1913* (1908-1912; reprint, New York: Arno Press, 1977).

⁶Bureau of the Census, "Historical Census Statistics on Population Totals by Race, 1790 to 1900, and by Hispanic Origin, 1790 to 1900, for the United States, Regions, Divisions, and States," Campbell Gibson and Kay Jung, prepared by the Population Division, *Population Division Working Paper Series No. 56*, Bureau of the Census (Washington, D.C., February 1999), Tables C-9-11. <http://www.census.gov/publication/www/documentation/tws0056.html> (3 November 2003).

⁷*Ely Weekly Mining Expositor* (16 January 1908); (25 February 1909); *Reno Evening Gazette* (11 January 1910); (13 January 1921); (31 January 1921); *Tonopah Daily Sun* (24 August 1907); *San Francisco Call* (21 March 1910).

⁸Russell R. Elliott, *History of Nevada* (Lincoln: University of Nebraska Press, 1973), 177-89; James W. Hulse, *The Nevada Adventure: A History*, 6th ed., (Reno: University of Nevada Press, 1990), 165-69; Russell R. Elliott, *Nevada's Twentieth-Century Mining Boom: Tonopah, Goldfield, Ely*, forward by Jerome E. Edwards (1966; reprint Reno: University of Nevada Press, 1988), 3-4.

⁹Gerald D. Nash, *The American West Transformed: The Impact of the Second World War* (Lincoln: University of Nebraska Press, 1985), 13, 48; Glen D. Weaver, "Nevada's Federal Lands," *Annals of the Association of American Geographers*, 59:1 (March 1969): 31, 42; *Walker Lake Bulletin* [Hawthorne, Nevada], (2 July 1921); Magnaghi, "Virginia City's Chinese Community," 134; Hulse, *Silver State*, 76, 124; Masakazu Iwata, *Planted in Good Soil: The History of the Issei in United States Agriculture* (New York: Peter Lang Publishing, Inc., 1992), II, 226, 625; Joan Whitely, "Bill Tomiyasu: The Green Thumb," in *The First 100: Portraits of the Men and Women Who Shaped Las Vegas*, A. D. Hopkins and K. J. Evans, eds., 57-60 (Las Vegas: Huntington Press, 1999); *Churchill County Eagle* [Fallon, Nevada], (12 July 1924).

¹⁰Andrew B. Russell, "Friends, Neighbors, Foes and Invaders: Conflicting Images and Experiences of Japanese Americans in Wartime Nevada" (Master's thesis, University of Nevada, Las Vegas, 1996), 40-41, 43-44, 50-52; Russell R. Elliott, *Growing Up in a Company Town: A Family in the Copper Camp of McGill, Nevada* (Reno: Nevada Historical Society, 1990), 26; Iwata, *Planted in Good Soil*, 624.

¹¹*In re Ah Yup*, 1 F. Cas. 223, 5 Sawyer 155 (1878); *In re Saito*, 62 F. 126 (Mass. 1894).

¹²Jacobson, *Barbarian Virtues*, 152-63; Higham, *Strangers in the Land*, 271. *Reno Evening Gazette* (3 March 1910); (16 March 1910); (23 December 1910). Billhimer, *Pawns of Fate*, 34, n. 114.

¹³Billhimer, *Pawns of Fate*, 34; Nevada Legislature, *Journal of the Assembly of the Twenty-fifth Session of the Legislature of the State of Nevada* (Carson City, 1911), 38, 64-65, 67, 69, 177, 190; Nevada Legislature, *Journal of the Senate of the Twenty-fifth Session of the Legislature of the State of Nevada* (Carson City, 1911), 60, 91, 129; Nevada Legislature, *Statutes of the State of Nevada Passed at the Twenty-ninth Session of the Legislature* (Carson City, 1919), 124.

¹⁴Nevada Legislature, "No. 17—Senate Joint and Concurrent Resolution, relative to Japanese and Hindu immigration" in *Statutes of the State of Nevada Passed at the Twenty-fifth Session of the Legislature* (Carson City, 1911), 456.

¹⁵*Ibid.*; *Ex parte Shahid*, 205 F. 812 (1913); Hulse, *Silver State*, 82-84, 103-104, 115.

¹⁶William G. Robbins, *Colony and Empire: The Capitalist Transformation of the American West* (Lawrence: University Press of Kansas, 1994), 91-93; Higham, *Strangers in the Land*, 62-63, 80-87; Richard Hofstadter, *The Age of Reform: From Bryan to F. D. R.* (New York: Vintage Books, 1955), 168-70.

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²³*Ely Weekly Mining Expositor* (11 February 1909).

²⁴Editorial, "Nevada's Voice for War," *Washington Post* (3 February 1909); *Ely Weekly Mining Expositor* (13 February 1909).

²⁵Wilber S. Shepperson, *Restless Strangers: Nevada's Immigrants and Their Interpreters* (Reno: University of Nevada Press, 1970).

²⁶Higham, *Strangers in the Land*, 203, 204; Jacobson, *Barbarian Virtues*, 84-85, 200-201; Arizona Legislature, *Acts, Resolutions, and Memorials of the Regular Session, Third Legislature of the State of Arizona* (Phoenix, 1917).

²⁷*Sacramento Bee* (9-17 June 1919); "The Chinese and the Law," *Reno Evening Gazette*, (1 February 1919); *Reno Evening Gazette*, "A Nation of White People," (21 August 1920). The *Reno Evening Gazette* lists the byline for "A Nation of White People," as the *Sparks Tribune*, Sparks, Nevada. An examination of incomplete issues of the *Tribune* between June and August 1920, on microfiche, at the Lied Library, University of Nevada, Las Vegas, failed to yield the original article. California Legislature, *Statutes of California and Amendments to the Codes Passed at the Fortieth Session of the Legislature, 1913* (San Francisco: Bancroft-Whitney Co., 1913), 206-208; California Legislature, *Statutes of California: Resolutions Adopted at Extra Session of the Forty-Third Legislature 1919, Measures Submitted to Vote of Electors, 1920, General Laws, Amendments to Codes, Resolutions, Constitutional Amendments Passed at the Regular Session of the Forty-Fourth Legislature, 1921* (Sacramento, 1921), lxxxiii-lxxxvi; Raymond Leslie Buell, "The Development of the Anti-Japanese Agitation in the United States II," *Political Science Quarterly*, 38:1 (March 1922), 70, 72.

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___ Student*	\$20 (proof of ID required)
___ Senior*	\$20

**The student and senior levels do not include the Nevada Historical Society Quarterly. If you would like to receive the Quarterly, membership at the higher levels, beginning at \$35, is available.*

___ No, I do not wish to be a member of the Historical Society, but please accept my tax deductible donation in the amount of \$_____

Name(s) _____

Address _____

City _____ State _____ Zip _____

Phone: Home _____ Business _____

Email _____

The Society respects your right to privacy. We will not share your e-mail address with other organizations.



Mail this form and your check to:

Nevada Historical Society

Attn: Membership, 1650 N. Virginia St. Reno, NV 89503

775-688-1190 • www.nevadaculture.org



Nevada Historical Society Quarterly Advertisement Guidelines

The advertisement guidelines are the basis for promoting publications of historical merit based upon regional history including the West, the Great Basin and Nevada. The quarterly publication assists in fulfilling the mission for the Nevada Historical Society.

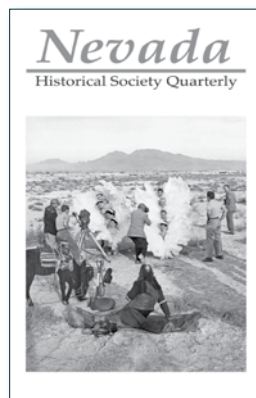
Publication Trim Size:

7" x 10"

Sizes & Specs:

Black & White Ads only
Artwork format: 300 dpi PDF

<i>Ad size</i>	<i>width</i>	<i>x</i>	<i>height (no bleed)</i>
Quarter page	3"	x	2.5"
Half page	6"	x	5"
Full page	6"	x	9"



NHS Quarterly Advertising Rates:

The NHS Quarterly gives discounts for the purchase of multiple advertisements based upon number of ads and ad size. The general location of the advertisements will be located at the end of the quarterly.

<i>Ad size</i>	<i>4x</i>	<i>2x</i>	<i>1x</i>
Quarter page	60.00	70.00	80.00
Half page	100.00	120.00	140.00
Full page	150.00	175.00	200.00
<i>Premium Location: Back Inside Cover</i>			
	<i>1x</i>		
Half page	200.00		
Full Page	275.00		

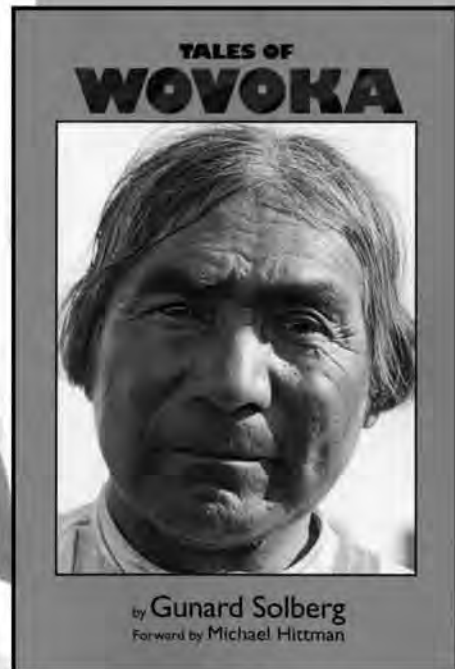
NHS Quarterly Deadlines:

<i>Issue print date</i>	<i>Reserve date</i>	<i>Artwork due</i>
Spring (March)	December 10	end of December
Summer (June)	March 10	end of March
Fall (Sept)	June 10	end of June
Winter (Dec)	September 10	end of September

Sheryl L. Hayes-Zorn
775-688-1190, ext 222
SHayesZorn@nevadaculture.org

Tales of Wovoka

I want my people to stay with me here. All the dead men will come to life again. Their spirits will come to their bodies again. We must wait here in the homes of our fathers and be ready to meet them in the bosom of our mother. - Wovoka, Paiute Prophet



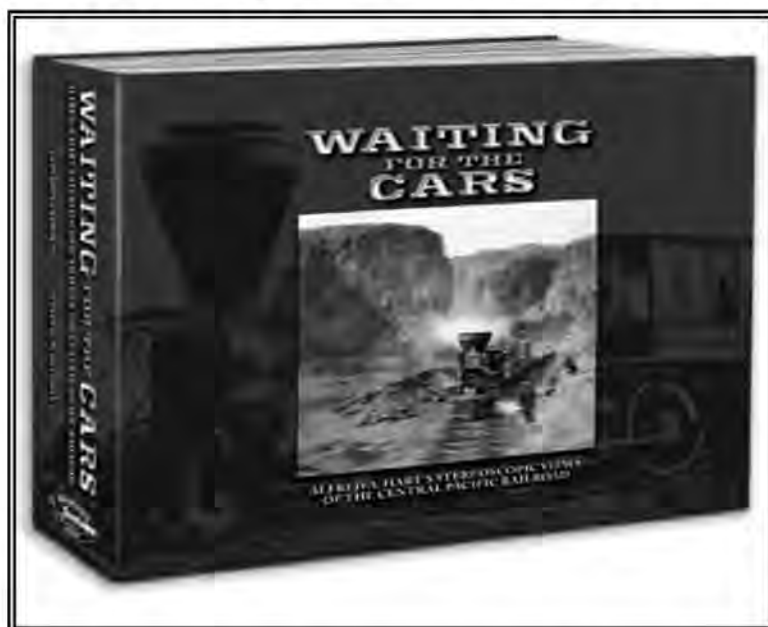
A compilation of stories detailing the life of Indian Messiah and Ghost Dance Prophet Wovoka, aka Jack Wilson, of Yerington, Nevada.

Author—Gunard Solberg

Price—\$13.95

ISBN# 978-0-97287731-2

Waiting For The Cars



Alfred A. Hart's Stereoscopic Views of the Central Pacific Railroad, 1863-1869

Waiting for the Cars features 218 photographs of the construction of the Central Pacific Railroad taken by Alfred A. Hart. The images are presented as the photographer made them, in full 3D stereo. The dual-image stereo cards are presented in full color within this 480-page hardbound book.

Anaglyphic Images by Howard Goldbaum;

Text by Wendell W. Huffman.

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