

# UCLA

## UCLA Previously Published Works

### Title

"Unholy Traffic in Human Blood and Souls": Systems of California Indian Servitude under US Rule

### Permalink

<https://escholarship.org/uc/item/3dp144qd>

### Journal

PACIFIC HISTORICAL REVIEW, 83(4)

### ISSN

0030-8684

### Author

Madley, Benjamin

### Publication Date

2014

### DOI

10.1525/phr.2014.83.4.626

### Copyright Information

This work is made available under the terms of a Creative Commons Attribution-NonCommercial-ShareAlike License, available at <https://creativecommons.org/licenses/by-nc-sa/4.0/>

Peer reviewed

# “Unholy Traffic in Human Blood and Souls”: Systems of California Indian Servitude under U.S. Rule

**BENJAMIN MADLEY**

*The author teaches in the history department and American Indian Studies Program at the University of California, Los Angeles.*

*From 1846 onward, at least 20,000 California Indians worked in varied forms of bondage under U.S. rule. This essay provides the first article-length survey of the statewide rise and fall of California’s systems of Indian servitude under U.S. rule, including their Russo-Hispanic antecedents, establishment under martial law, expansion under civilian rule, and dismantling by state and federal authorities. Further, this article proposes the first taxonomy of these systems and, in conclusion, discusses how California Indian servitude illuminates the histories of California, the western United States, the nation as a whole, and the western hemisphere while suggesting new analytical methods and research directions.*

**Key words:** *American Indian labor, American Indian slavery, California Indians, California legal history, indentured servitude, unfree labor*

---

The author thanks Stephen Aron, Colin Calloway, Boyd Cothran, Robin Derby, Bruce Duthu, John Faragher, Daniel Lynch, Timothy Macholz, William Marotti, Valerie Matsumoto, Preston McBride, Edward Melillo, Aaron O’Connell, Carla Pestana, Jesse Philips, Arthur Rolston, Peter Stacey, Kevin Terraciano, Owen Williams, Craig Yirush, Judy Yung, Natale Zappia, and the *Pacific Historical Review’s* editors and anonymous reviewers. Michael Magliari provided patient and invaluable guidance.

*Pacific Historical Review*, Vol. 83, No. 4, pages 626–667. ISSN 0030-8684, eISSN 1533-8584  
© 2014 by the Pacific Coast Branch, American Historical Association. All rights reserved.  
Please direct all requests for permission to photocopy or reproduce article content through the University of California Press’s Rights and Permissions website, at <http://www.ucpressjournals.com/reprintinfo.asp> DOI: 10.1525/phr.2014.83.4.626.

*The fact is, kidnapping Indians has become quite a business of profit, and I have no doubt is at the foundation of the so-called Indian wars. To counteract this unholy traffic in human blood and souls, I have appointed a number of special agents in the country through which the kidnappers pass. . . .*

—Northern California Indian Affairs superintendent  
George M. Hanson, 1861<sup>1</sup>

From 1846 onward, at least 20,000 California Indians worked in varied forms of bondage under U.S. rule in California.<sup>2</sup> Journalists described these systems of servitude, diarists recorded their horrors, and officials reported whites holding California Indian men, women, and children as unfree laborers. Yet, scholars have written surprisingly little about this “unholy traffic.”

Unfree labor—defined here as work without the freedom to quit—was common in nineteenth-century California. The large scale of unfree California Indian labor under U.S. rule was the product of supply (provided by a large California Indian population), demand (driven by a rapidly expanding labor market), and, most importantly, political will (informed by racism and expressed in legislation and governmental policies). Unfree California Indian labor frequently existed outside of the law; but statutes, coupled with selective law enforcement, established, enabled, and reinforced both *de jure* and *de facto* California Indian servitude. In fact, many state and federal policy makers, law enforcement officials, and judges sanctioned these regimes. State and federal officials made California Indian servitude possible and ultimately demonstrated their power over this unholy traffic by orchestrating its demise within the context of the international abolition movement. These conditions did not develop in a lawless western United States, but in a region where policy and law often helped to shape labor relations.

This essay provides the first article-length study of the rise and fall of California’s systems of Indian servitude under U.S. rule,

---

1. Geo. M. Hanson, Superintending Agent Indian Affairs, N. Dist. Cal. to Wm. P. Dole, Commissioner of Indian Affairs, Dec. 31, 1861, in United States Office of Indian Affairs, *Report of the Commissioner of Indian Affairs for the Year 1862* (Washington, D.C., 1863), 315 (hereafter cited as Hanson to Dole, Dec. 31, 1861).

2. Anthropologist Robert Heizer estimated that, “the number of native Californians sold or placed into legal bondage [between 1850 and 1863 alone] is about 20,000.” Robert Heizer, “Indian Servitude in California,” in William Sturtevant, ed., *Handbook of North American Indians*, vol. 4, *History of Indian-White Relations*, ed. Wilcomb Washburn (Washington, D.C., 1988), 415.

outlining supply-and-demand dynamics while emphasizing state and federal policies, legislation, and law enforcement. This article also proposes the first taxonomy of these systems, which included *de jure* apprenticeship, convict leasing, indenture, and custodianship of minors, as well as *de facto* debt peonage, chattel slavery, and—to introduce a new category—disposable unfree labor. Finally, this essay explores how California Indian servitude illuminates the histories of California, the western United States, the nation as a whole, and the western hemisphere, while suggesting new analytical methods and research directions.

The history of unfree California Indian labor under U.S. rule unfolded in three phases. Under martial law (1846–1849), U.S. military officers laid the system’s foundation. During early statehood (1849–1862), state and federal policy makers expanded this system. President Abraham Lincoln’s 1863 Emancipation Proclamation then began the protracted abolition of these institutions, first in law and then in practice. Before proceeding, however, it is important to contextualize this history within existing scholarship and the unfree California Indian labor systems of the Mexican period (1821–1846) upon which U.S. policy makers built.

Discussions of unfree labor in the Trans-Mississippi West frame the study of California Indian servitude. Turnerian depictions of the U.S. frontier as a zone of free labor notwithstanding, scholars have long understood that the western United States was, in fact, a region where unfree labor—including debt peonage, indenture, and chattel slavery—flourished.<sup>3</sup> Historian Howard Lamar pioneered this field with his 1985 essay, “From Bondage to Contract: Ethnic Labor in the American West, 1600–1890.”<sup>4</sup> Historian Gunther Peck then moved Lamar’s work forward in time, while emphasizing the importance of geographic isolation to unfree labor in the western United States.<sup>5</sup> California was one western region where unfree labor flourished.

---

3. Frederick Jackson Turner, “The Significance of the Frontier in American History,” *Annual Report of the American Historical Association for the Year 1893* (1893), 199–227.

4. Howard Lamar, “From Bondage to Contract: Ethnic Labor in the American West, 1600–1890,” in Steven Hahn and Jonathan Prude, eds., *The Countryside in the Age of Capitalist Transformation: Essays in the Social History of Rural America* (Chapel Hill, N.C., 1985), 293–324.

5. Gunther Peck, *Reinventing Free Labor: Padrones and Immigrant Workers in the North American West, 1890–1930* (Cambridge, Mass., 2000).

Scholars have analyzed unfree Chinese, Chilean, and African American labor in California under U.S. rule. For example, in 1964 historian Gunther Barth discussed unfree Chinese labor in California, in 1979 sociologist Lucie Cheng Hirata described indentured and enslaved Chinese prostitutes there, historian Peggy Pascoe then also discussed captive Chinese prostitutes in California, and in 1986 Asian American Studies scholar Sucheng Chan touched on Chinese debt bondage there, as did historian Najia Aarim-Heriot in 2003.<sup>6</sup> More recently, historian Edward Melillo described California's thousands of Chilean debt peons.<sup>7</sup> Studies of African American chattel slavery in California, meanwhile, are substantial. In 1905 historian Clyde Duniway led the way with his essay, "Slavery in California after 1848." Historians such as Delilah Beasley, W. Sherman Savage, Rudolph Lapp, and Stacey Smith then analyzed California's African American chattel slavery in subsequent articles and books.<sup>8</sup> Nonetheless, the contours of these systems of servitude remain incompletely understood.

More scholars have written about California Indian bondage under U.S. rule, but their studies are generally brief. In 1943 demographer Sherburne Cook wrote fourteen path-breaking pages on "kidnapping and slavery."<sup>9</sup> Twenty-three years later, activist Allan

---

6. Gunther Barth, *Bitter Strength: A History of the Chinese in the United States, 1850–1870* (Cambridge, Mass., 1964), 50–156; Lucie Cheng Hirata, "Free, Indentured, Enslaved: Chinese Prostitutes in Nineteenth-Century America," *Signs*, 5 (1979), 3–29; Peggy Pascoe, "Gender Systems in Conflict: The Marriages of Mission-Educated Chinese American Women, 1874–1939," *Journal of Social History*, 22 (1989), 635; Peggy Pascoe, *Relations of Rescue: The Search for Female Moral Authority in the American West, 1874–1939* (New York, 1990), 14; Sucheng Chan, *This Bittersweet Soil: The Chinese in California Agriculture, 1850–1910* (Berkeley, 1986), 25–26; Najia Aarim-Heriot, *Chinese Immigrants, African Americans, and Racial Anxiety in the United States, 1848–1882* (Urbana, Ill., 2003), 30–35. Historian Ronald Takaki also discussed unfree Chinese labor in California in *Strangers from a Different Shore: A History of Asian Americans* (New York, 1989), 121–122.

7. Edward Melillo, "Strangers on Familiar Soil: Chile and the Making of California, 1848–1930," (Ph.D. dissertation, Yale University, 2006), 211–275.

8. Clyde Duniway, "Slavery in California after 1848," *Annual Report of the American Historical Association*, 1 (1905), 241–48; Delilah Beasley, "Slavery in California," *Journal of Negro History*, 3 (1918), 33–44; Beasley, *The Negro Trailblazers of California* (Los Angeles, 1919); W. Sherman Savage, *Blacks in the West* (Westport, Conn., 1976), 22, 30–33, 38–43; Rudolph Lapp, *Blacks in Gold Rush California* (New Haven, Conn., 1977); Stacey Smith, "Remaking Slavery in a Free State: Masters and Slaves in Gold Rush California," *Pacific Historical Review*, 80 (2011), 28–63. For a comparative study of African American, American Indian, Latino, and Chinese unfree labor in California see Stacey Smith, *Freedom's Frontier: California and the Struggle Over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill, N.C., 2013).

Morris briefly described how “CALIFORNIA WAS AN INDIAN SLAVE STATE,” and in 1971 anthropologists Robert Heizer and Alan Almquist provided more coverage while reprinting two laws central to unfree California Indian labor under U.S. rule.<sup>10</sup> Three years later, Heizer published fifteen documents on the “Indenture, Kidnapping and Sale of Indians,” and in 1979 historian Albert Hurtado published an essay on “Controlling California’s Indian Labor Force” during the Mexican-American War. Additional treatments followed. In 1984, historian James Rawls devoted a chapter to California Indian servitude under U.S. rule. Hurtado and Heizer then briefly revisited the topic four years later. In 2004, historian Richard Street contributed twenty pages to the field, while historian Michael Magliari produced a San Diego County case-study essay. My 2009 dissertation then provided additional resolution, in 2012 Magliari published a Colusa County case-study article, and in 2013 Smith discussed multiple forms of California Indian servitude as well as aspects of their abolition.<sup>11</sup> Still, an overview of the statewide rise, fall, and variety of unfree California Indian labor under U.S. rule has remained unwritten. This article fills that lacuna, beginning with how these systems of servitude built upon Mexican antecedents.<sup>12</sup>

---

9. Sherburne Cook, “The Conflict Between the California Indian and White Civilization, III. The American Invasion, 1848–1870,” *Ibero-Americana*, 23 (1943), 48–62.

10. Allan Morris quoted and summarized in Bob Baker, *Americans in Bondage* (Fairfax, Calif., 1967), 3–6; Robert Heizer and Alan Almquist, *The Other Californians: Prejudice and Discrimination Under Spain, Mexico, and the United States to 1920* (Berkeley, 1971), 19–20, 39–58, 212–217.

11. Robert Heizer, ed., *The Destruction of California Indians: A Collection of Documents from the Period 1847 to 1865 in which are Described Some of the Things that Happened to Some of the Indians of California* (Santa Barbara, Calif., 1974), 219–241; Albert Hurtado, “Controlling California’s Indian Labor Force; Federal Administration of California Indian Affairs during the Mexican War,” *Southern California Quarterly*, 61 (1979), 217–238; James Rawls, *Indians of California: The Changing Image* (Norman, Okla., 1984), 81–108; Albert Hurtado, *Indian Survival on the California Frontier* (New Haven, Conn., 1988), 130–131, 55–71, 92–99; Heizer, “Indian Servitude in California,” 414–416; Richard Street, *Beasts of the Field: A Narrative History of California Farmworkers, 1769–1913* (Stanford, 2004), 108–128; Michael Magliari, “Free Soil, Unfree Labor: Cave Johnson Coutts and the Binding of Indian Workers in California, 1850–1867,” *Pacific Historical Review*, 73 (2004), 349–389; Benjamin Madley, “American Genocide: The California Indian Catastrophe, 1846–1873” (Ph.D. dissertation, Yale University, 2009); Michael Magliari, “Free State Slavery: Bound Indian Labor and Slave Trafficking in California’s Sacramento Valley, 1850–1864,” *Pacific Historical Review*, 81 (2012), 155–192; Smith, *Freedom’s Frontier*, 18–24, 112–124, 131–140, 144–161, 182–192, 198–202.

12. For examples of pre-contact California Indian servitude see Richard Gould, “Tolowa” and William J. Wallace, “Hupa, Chilula, and Whilkut” in Sturtevant, ed.,

Mexico outlawed slavery throughout its possessions in 1829, but abolishing unfree California Indian labor proved difficult to enforce, given that many Californian colonists depended upon varied systems of Indian servitude.<sup>13</sup> As in California under U.S. rule, this dependence stemmed from supply-and-demand dynamics as well as political will informed by racial hierarchies. Anglo Americans, Europeans, and Mexicans in California demanded laborers to work their fields, manage their cattle, and staff their homes and businesses. Yet Mexican California suffered from a persistent non-Indian labor shortage. In their search for labor, colonists turned to an alternative: California's large Indian population, estimated at perhaps 150,000 people in 1845.<sup>14</sup> As Hurtado noted, "In the 1840s Indians were practically the sole source of agricultural labor and whites used every possible means to obtain their services. Slavery, debt peonage, and wage labor all had a place in Mexican and Anglo California."<sup>15</sup> Many Californians operated their vast ranchos almost entirely with Indian labor, much of it coerced. According to Native American Studies scholar Edward Castillo, "By 1840 there were some dozen of these feudal establishments, each with 20 to several hundred Indians, in all perhaps as many as 4,000."<sup>16</sup> Deeply engrained racial hierarchies, which placed Indians at the bottom, had long shaped Spanish California, thus supporting the political will to maintain such unfree California Indian labor.<sup>17</sup> Rancheros ensnared some of these Indians in what scholars have defined as "debt peonage," "seigneurialism" or "paternalism . . . similar to that which bound black slaves to white masters."<sup>18</sup>

---

*Handbook of North American Indians*, vol. 8, *California*, ed. Robert Heizer (Washington, D.C., 1978), 133, 171. Mexico's systems of California Indian servitude built upon Russian and Spanish antecedents.

13. Paul Finkelman, "The Law of Slavery and Freedom in California," *California Western Law Review*, 17 (1981), 438; Tomás Almaguer, *Racial Fault Lines: Historical Origins of White Supremacy in California*, 2nd ed. (Berkeley, 2009), 48.

14. Sherburne F. Cook, *The Population of California Indians, 1769–1970* (Berkeley, 1976), 44.

15. Hurtado, *Indian Survival on the California Frontier*, 211.

16. Edward Castillo, "The Impact of Euro-American Exploration and Settlement," in Heizer, ed., *Handbook of North American Indians*, 8: 105.

17. For a longer-term sense of how these hierarchies built upon Spanish legacies, see David Weber, *Bárbaros: Spaniards and Their Savages in the Age of Enlightenment* (New Haven, Conn., 2005).

18. David Weber, *The Mexican Frontier, 1821–1846* (Albuquerque, 1982), 211; Douglas Monroy, *Thrown Among Strangers: The Making of Mexican Culture in Frontier California* (Berkeley, 1990), 100–103; Almaguer, *Racial Fault Lines*, 49–50.

Mexican-era Californians also illegally bought, sold, and employed Indian slaves.<sup>19</sup> Thus, multiple forms of California Indian servitude—as well as the profound racism that made unfree California Indian labor ideologically acceptable—existed on the eve of the Mexican-American War, setting important local precedents to which U.S. citizens and administrations grafted their own racist traditions and unfree labor systems even as they undid Mexican rule.

### U.S. military rule, 1846–1849

On July 7, 1846, Navy Commodore John Sloat landed 250 sailors and marines at Monterey, claiming California for the United States.<sup>20</sup> With the Stars and Stripes cracking in the Pacific breeze, the Army and Navy officers governing California faced a choice. They could continue Mexico's California Indian policies or chart a new course. The officers soon discovered that—due to a shortage of non-Indian laborers—California's cattle, grain, and grape economy depended upon Indian labor. In order not to disrupt this economy, they maintained existing labor relations. Doing so was a choice—an expression of political will—driven by notions of Native American racial inferiority that allowed for treating California Indians as unfree laborers. Yet given the politically vexed nature of slavery in antebellum United States territories, an issue that increasingly polarized the nation, the officers tried to strike a balance between maintaining the Mexican system and overtly legalizing California Indian slavery. As we shall see, they banned outright slave raiding, slave trading, and slave holding while paradoxically requiring California Indians to become unfree laborers upon entering into employment in the colonial economy.

On September 15, 1846, the commandant of the Northern Department of California, Navy captain John Montgomery, issued the United States' first California Indian policy directive. In a public proclamation, he began by acknowledging the existence of California Indian slavery: "persons have been and still are impressing and holding to service, Indians against their will, without any legal contract, and without due regard to their rights as freemen." Captain

---

19. Jessie Francis, *An Economic and Social History of Mexican California, 1822–1846* (New York, 1976), 505–507.

20. *San Francisco Daily Alta California*, July 10, 1852, p. 2; Justin Smith, *The War with Mexico* (2 vols., New York, 1919), 1: 334–335.



Montgomery then issued what, at first, seemed to be a kind of emancipation proclamation that allowed for the continuation of existing employer/employee relationships under new rules: “all persons [*sic*] so holding or detaining Indians, shall release them, and permit them to return to their own homes, unless they can make a legal contract with them, which shall be acknowledged before the nearest Justice of the Peace.” He continued, “The Indian population must not be looked upon in the light of slaves, but it is deemed necessary that the Indians within the settlements, shall have employment with the right of choosing their own master or employer.”<sup>21</sup>

Under the tenets of Montgomery’s proclamation, California Indians could freely select an employer, but they were bound to continue working for the “master or employer” unless the master, employer, or a justice released them. Montgomery thus institutionalized indenture without term limitation and legalized holding and working Indians indefinitely. To ensure a stable Indian labor supply—then California’s economic backbone—he made escape difficult and participation mandatory. His proclamation designated unemployed Indians “within the settlements” as vagrants: “All Indians must be required to obtain employment and not permitted to wander about in an idle and dissolute manner, if found so doing, they will be liable to arrest and punishment, by labor on the PUBLIC WORKS, at the discretion of the Magistrate.” Montgomery put the full power of the armed forces and civil bureaucracy behind his proclamation, insisting that, “All officers, civil or military, under my command, are required to execute this order, and take notice of every violation thereof.”<sup>22</sup> Montgomery thus made Indians either captive laborers or outlaws, thereby criminalizing Indian freedom.

Several months later, Monterey officials issued their own municipal version of Montgomery’s edict. On January 11, 1847, Monterey magistrate Walter Colton and the town’s council, issued “AN ORDINANCE RESPECTING THE EMPLOYMENT OF INDIANS” in Monterey. It stipulated “That no person whatever shall . . . hire or take into his service any Indian without a certificate from the former employer of that Indian stating that the said employer has no claims on the services of that Indian for wages advanced.” Monterey’s government formulated this certificate system—possibly borrowed from

---

21. *Monterey Californian*, Nov. 7, 1846, p. 2.

22. *Ibid.*

contemporaneous Southern black codes or Mexican California's 1836 Indian pass system—to both mitigate conflicts between employers over control of Indian employees and to limit Indians' freedom of employment. Unscrupulous employers could claim that an Indian owed them labor “for wages advanced” in order to retain physical control over them indefinitely. The ordinance thus allowed employers to force Indians into the legal position and subjective reality of debt peonage. Without the all-important certificate, an Indian employee could not legally be employed elsewhere. To encourage compliance, Magistrate Colton and the town's council stipulated financial penalties for employers who violated their ordinance. Then, between January and April, they published the ordinance in eleven issues of the *Monterey Californian*, both in English and Spanish.<sup>23</sup>

As the *Californian* published the Monterey ordinance for the sixth time, San Francisco magistrate Washington Bartlett announced that his town would also enforce coercive Indian labor laws. On February 20 and March 6, 1847, Magistrate Bartlett republished Montgomery's proclamation in *The California Star*, San Francisco's new newspaper. Bartlett's republished proclamation condemned Indian slavery but emphasized that Indians were to work under a white “master or employer.” He further reiterated that unemployed Indians were to be captured and punished, like criminals, “by labor on the PUBLIC WORKS at the direction of the Magistrate.” Finally, as in Montgomery's proclamation, “All Officers, civil or military . . . are required to execute the terms of the order, and take notice of every violation thereof.”<sup>24</sup> The proclamation placed San Francisco Indians under tighter state control, but did not stop *de facto* Indian chattel slavery there. That August, a journalist reported thirty-four Indian “inhabitants” in San Francisco, “mostly employed as servants and porters,” noting, “Some of the Indians are considered by persons having them as their property, and I am told . . . there have

---

23. *Monterey Californian*, Jan. 16, 1847, p. 3; Jan. 23, 1847, p. 4; Jan. 28, 1847, p. 2; Feb. 6, 1847, p. 4; Feb. 13, 1847, p. 4; Feb. 20, 1847, p. 4; Feb. 27, 1847, p. 4; March 6, 1847, p. 4; March 13, 1847, p. 4; March 27, 1847, p. 4; April 3, 1847, p. 4. Capitalization original. In 1836 Governor Mariano Chico “made a sweeping order that every Indian, found away from his residence without license from the alcalde, administrator or missionary, should be arrested and sentenced to labor on the public works.” Theodore Hittell, *History of California* (4 vols., San Francisco, 1898), 2: 221.

24. *San Francisco California Star*, Feb. 20, 1847, p. 4; March 6, 1847, p. 4. These versions of Montgomery's proclamation varied slightly from the original.

been instances of the sale and transfer of them from one person to another.”<sup>25</sup>

Meanwhile, California Indians continued to resist slave raiders and kidnappers, as they would for decades to come. For example, on March 17, whites “stormed” an Indian “village and attempted to take some of them into servitude—were resisted and lost one of their number, not however, without Killing four of their opponents.”<sup>26</sup> Violently resisting such attacks routinely cost California Indian lives. Yet, along with hiding, it was one of the only ways that California Indians could protect their loved ones from the unholy traffic within a legal system that increasingly left them unprotected.

That summer, California’s military administrators established the precedent of legal impunity for Indian killing and slave raiding. In late June or early July, Antonio Armijo, Robert Smith, and John Eggar attacked a Maidu village near present-day Chico, killing ten to thirteen people and enslaving thirty to thirty-seven.<sup>27</sup> Soldiers soon arrested them.<sup>28</sup> Yet at trial judges acquitted the three of all charges and “set [them] at liberty.”<sup>29</sup> California’s military government never again tried to stop the kidnapping of Indians.<sup>30</sup> This grant of judicial impunity for kidnapping California Indians amounted to unstated support of un-free California Indian labor. Other martial law policies were more overt.

In the autumn of 1847, California’s military rulers tightened control over Indians within and beyond the colonial labor system. With probably no more than 1,500 soldiers to cover 163,695 square miles, these officers sought to augment their limited troop strength by engaging white civilians in the control of Indians.<sup>31</sup> To this end,

---

25. *Ibid.*, Aug. 28, 1847, pp. 1–2.

26. Geo. Harrison to Capt. DuPont, March 17, 1847 in *Records of the 10<sup>th</sup> Military Department, 1846–51, National Archives and Records Administration* (Washington, D.C., 1955), Record Group 98, M210, 2: document 21.

27. *San Francisco California Star*, July 24, 1847, p. 2; J. A. Sutter, Sub-agent for the Indians on the Sacramento and San Joaquin rivers to R. B. Mason, Colonel 1<sup>st</sup> Dragoons, Governor, Commander-in-Chief of the land forces in California, July 12, 1847, in S. Exec. Doc. 18, 31 Cong., 1 sess. (1850), 351.

28. Sutter to Mason, July 12, 1847, p. 351; Capt. Folsom to Gov. Mason, Aug. 15, 1847, in *Archives of California, Bancroft Library, Berkeley, Calif.*, vol. 63, p. 90.

29. L. W. Boggs and M. G. Vallejo [acting as judges] to Gov. Mason, Oct. 30, 1847, in *Archives of California, Bancroft Library*, vol. 63, p. 124.

30. Street argued that “military authorities never again made an effort to impede kidnapping” in *Beasts of the Field*, 110.

31. [www.census.gov/geo/reference/state-area.html](http://www.census.gov/geo/reference/state-area.html) (viewed Dec. 10, 2013); *San Francisco Californian*, June 19, 1847, p. 2; W. L. Marcy, Secretary of War, to the President,

California's Secretary of State under martial law, the West Point-trained Lieutenant Henry Halleck, instituted a statewide Indian pass system that signaled a new California Indian labor policy. Halleck, who had a flair for organization and later became President Lincoln's Civil War general in chief, began publicizing the system, in both English and Spanish, in September 1847. He put it into effect on November 1. Halleck's pass system aimed to both control Indian laborers and help colonists and authorities differentiate between Indians employed by whites and Indians not enmeshed in the colonial economy. The pass system criminalized all Indians not employed by whites, including any Indian who left a white employer without written permission: "all persons hireing [*sic*] Indians . . . shall give every such Indian a certificate . . . and any Indian found beyond the limits of the town or rancho in which he may be employed, without such certificate or pass, will be liable to arrest as a horse thief."<sup>32</sup> Indians without the all-important pass could thus be tried and punished as stock rustlers, then the scourge of California ranchers.<sup>33</sup>

By requiring "any Indian" to obtain a pass from an employer, rather than from the state, Halleck's system legalized and intensified old Mexican forms of California Indian servitude; it made all Indians within the colonial economic matrix captive laborers who could not freely change employers without becoming outlaws. Halleck's pass system restricted Indians' access to non-Indian settlements or towns so that Indians could legally enter these zones only with the authorization of a non-Indian employer or a federal Indian agent: "Wild Indians, and other Indians not employed as above, wishing to visit settlements or towns for the purpose of trade, must have a passport from the Sub-Indian Agent of their district." To enforce these new restrictions on Indian employment and movement, Halleck proclaimed: "all Indian Agents, and civil Magistrates will use their best endeavors . . . to bring to trial and punishment all persons who may act in violation of its provisions."<sup>34</sup> Like the black codes of the antebellum

---

Dec. 2, 1847, in Blair and Rives, *Appendix to The Congressional Globe, For the First Session, Thirtieth Congress: Containing Speeches and Important State Papers* (46 vols., Washington, D.C., 1848), 17: 17.

32. H. W. Halleck, Lieutenant of Engineers and Secretary of State for California, "CIRCULAR To Indian Agents and others," in *San Francisco California Star*, Sept. 18, 1847, p. 3.

33. For California stock rustling, see Natale Zappia, "Indigenous Borderlands: Livestock, Captivity, and Power in the Far West," *Pacific Historical Review*, 81 (2012), 193–220.

34. Halleck, *San Francisco California Star*, Sept. 18, 1847, p. 3.

South and the 1836 California Indian pass system from which it may have borrowed, Halleck's program attempted to control Indian workers and their movements while making it easier to identify, capture, and punish those not part of the system or in violation of its draconian rules.<sup>35</sup>

Halleck's passports legally segregated Indians, and the results were fourfold. The passport system made Indians without passports outlaws, profoundly undercut the military government's proclamations banning Indian slavery, severely limited Indians' freedom, and made it easier for non-Indians to distinguish which Indians they could kill or kidnap without offending federal and municipal authorities. The 1847 pass system made Indians working for non-Indians captive laborers—thus intensifying control over the economically crucial Indian labor supply—while potentially criminalizing those tens of thousands still free. With this new legal framework in place, the largest mineral rush in nineteenth-century United States history now created the demand that triggered an expansion in the unholy traffic.

In early May 1848, the entrepreneur Samuel Brannan strutted through San Francisco's sandy lanes "holding up a bottle of [gold] dust" and bellowing "Gold! Gold! Gold from the American River!"<sup>36</sup> As the news spread, three factors dramatically increased California's demand for labor. First, many of California's 13,000 to 14,000 non-Indians—as well as many California Indians—left farms, ranches, and towns for the gold fields.<sup>37</sup> Those who remained behind now needed workers to fill vacated positions. Second, potential windfall profits motivated others to search for people that they could employ as miners. Finally, during 1848, perhaps 13,000 immigrants arrived in California, and most headed to the gold-rich Sierra Nevada foothills.<sup>38</sup> California farmers, ranchers, and businesspeople then needed

---

35. William Ellison observed: "These measures . . . bear close resemblance to the black codes of the south" in "Federal Indian Policy in California, 1846–1860," *The Mississippi Valley Historical Review*, 9 (1922), 43.

36. *The Works of Hubert Howe Bancroft*, vol. 23, *History of California, Vol. VI, 1848–1859* (San Francisco, 1888), 56.

37. *Ibid.*, 3; Malcolm Rohrbough, *Days of Gold: The California Gold Rush and the American Nation* (Berkeley, 1998), 8.

38. By January 1, 1849, California contained perhaps 24,000 to 26,000 non-Indians. *San Francisco Alta California*, Nov. 29, 1849, p. 2; Walter Nugent, *Into the West: The Story of Its People* (New York, 1999), 55; William Gwin, John Fremont, George Wright, and Edward Gilbert, "Memorial," in J. Ross Browne, *Report of The Debates in the Convention of California*,

additional laborers as they struggled to meet rapidly increasing demand for their goods and services. The newcomers of 1848 did supply labor. Yet because a self-employed miner might make a fortune, relatively few wanted to work for others. Thus, the Gold Rush increased labor demands. California Indians, then numbering perhaps 100,000 people or more, were a vast, conveniently located labor reserve that some now tapped, often without providing them the freedom to quit.<sup>39</sup> Demand for unfree California Indian labor then increased geometrically in 1849, driven by the arrival of at least 68,000 more immigrants, most of whom headed to the gold fields.<sup>40</sup>

Many reported California Indians in bondage in 1848 and 1849. On August 19, 1848, *The New York Herald* published a San Francisco correspondent's description of how, "The Diggor [*sic*] tribe [Ohlone] being next us here . . . are kept in a kind of slavery and bondage by the rancheros, and often flogged and punished. Their performing all the drudgery and heavy labor, leaves but little demand for laborers of white complexion."<sup>41</sup> Arriving the following year, a forty-niner later recollected that, "The Indians on the ranchos in California, are considered as stock, and are sold with it as cattle, and the purchaser has the right to work them on the rancho, or take them into the mines. They are extremely squalid in appearance, and in the most abject servitude."<sup>42</sup> California Indians also remembered their enslavement during this period. For example, a Pomo man, who became the Hoolanapo Pomo chief Augustine, and who would have been about twenty years old in 1849, recalled that the Anglo American Andrew Kelsey "took Indians down to the lower valleys and sold them like cattle or other stock."<sup>43</sup>

---

*On the Formation of the State Constitution, in September and October, 1849* (Washington, D.C., 1850), Appendix XXIII (hereafter cited as Browne, *Report of The Debates*).

39. Sherburne Cook estimated that there were approximately 150,000 California Indians alive in 1845 while C. Hart Merriam estimated that there were 100,000 in 1849. Cook, *Population of California Indians*, 44; Merriam, "The Indian Population of California," *American Anthropologist*, 7 (1905), 600.

40. In 1888, Hubert Howe Bancroft estimated that "the number of white inhabitants at the close of 1849 [was] not over 100,000," concluding that by the end of 1849 California's non-Indian population "approached 95,000," in *Works of Hubert Howe Bancroft*, 23: 159.

41. Anonymous correspondent in *The New York Herald*, Aug. 19, 1848, p. 1. "Digger" was the derogatory term many non-Indians used for California Indians.

42. John Letts, *California Illustrated; Including a Description of the Panama and Nicaragua Routes* (New York, 1853), 63.

43. Augustine in L. L. Palmer, *History of Napa and Lake Counties, California* (2 vols., San Francisco, 1881) 2: 45, 60, 58.

Some Gold Rush immigrants opposed slavery in California, espoused free soil ideology, and applauded the violent destruction of unfree California Indian labor.<sup>44</sup> For example, forty-niner William Case claimed that the killing of Nisenan Indians around Coloma, “was rough and terrible,” but helped to supplant “the old California system. . . of inequality—of proprietors and peons” with “the system of free labor.”<sup>45</sup> As Hurtado has observed, many whites “regarded the use of Indians in the diggings as something akin to slavery, which was abhorrent not because Indians were abused but because command over Indian labor was unfair competition with free white men.”<sup>46</sup> Meanwhile, a lethal new form of unfree California Indian bondage emerged.

As early as 1849, some whites were treating California Indians as disposable unfree laborers. Unlike antebellum slave owners in the South, who in the 1850s often paid hundreds of dollars for an African American slave, and sometimes well over \$1,000, Californians rarely spent more than \$200 to acquire *de facto* ownership of an Indian and often spent less than \$50 to do so.<sup>47</sup> Supply and demand, in combination with fluctuating tobacco and cotton prices, dictated this radical price differential. By the 1840s, the South’s supply of African American slaves came almost exclusively from natural regeneration. The federal government’s 1808 ban on the transatlantic slave trade to the United States had limited any new supply to births and a very small illicit international slave trade. Supply grew more slowly than demand and, in combination with rising demand for cotton and tobacco, pushed African American slave prices dramatically upward in the 1840s and 1850s.<sup>48</sup> By contrast, the supply of potential California Indian *de facto* slaves was relatively elastic (there were tens of thousands) and acquisition costs were low. Anglo

---

44. For more on free labor ideology and its variations see Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York, 1970).

45. Case in H. S. Lyman, “Reminiscences of Wm. M. Case,” *The Quarterly of the Oregon Historical Society*, 1 (1900), 288.

46. Albert Hurtado, *John Sutter: A Life on the North American Frontier* (Norman, Okla., 2006), 253.

47. For 1850s slave prices in the Old South see Robert Fogel and Stanley Engerman, *Time on the Cross: The Economics of American Negro Slavery* (Boston, 1974), figure 18, p. 76, and Ulrich B. Phillips, *Life and Labor in the Old South* (Columbia, S.C., 1929; 2007), 177.

48. Robert Fogel, *Without Consent or Contract: The Rise and Fall of American Slavery* (New York, 1989), 69–71. The internal United States slave trade in African Americans flourished during the 1840s and 1850s.

Californians, Mexican Californians, and Europeans could purchase California Indians from ranch owners who already held them as unfree laborers, or from slave raiders. Alternatively, they could become slave raiders themselves and pay nothing to acquire unfree California Indian laborers. This factor was crucial in determining the relatively low cost of *de facto* California Indian slaves. Meanwhile, demand—undercut by a rapidly growing immigrant labor supply—rarely pushed prices to African American chattel slavery levels.

The comparatively low cost of acquiring *de facto* California Indian slaves—combined with profound racism—sometimes led to their treatment as disposable laborers. The relatively high price of African American slaves, meanwhile, motivated most Southern slave owners to keep their slaves comparatively healthy and to encourage them to produce economically valuable offspring.<sup>49</sup> In contrast, some Californians treated Indians as disposable laborers based on a disregard for their value as human beings and how cheaply they could be replaced. For example, the Pomo man William Ralganal Benson interviewed local Indians in 1862 and later wrote that rancher Andrew Kelsey and his partner Charles Stone routinely failed to feed their Pomo and Wappo workers. Benson added that people “were starving” because their employers “would not let them go out hunting or fishing.” As a result, one year, “about 20 old people died during the winter from starvation.” Charles Stone and Andrew Kelsey seemed unconcerned about killing their unfree Indian laborers. Benson wrote that, “from severe whipping 4 died.”<sup>50</sup> Moreover, according to the historian L. L. Palmer, “It is stated by white men that it was no uncommon thing for them to shoot an Indian just for the fun of seeing him jump.”<sup>51</sup>

One particularly lethal instance of treating California Indians as disposable labor occurred in 1849 when Benjamin Kelsey took fifty to one hundred Pomo and/or Wappo men, from Charles Stone and his brother Andrew, east to the gold fields near Red Bluff.<sup>52</sup> On

---

49. David Brion Davis, *Inhuman Bondage: The Rise and Fall of Slavery in the New World* (New York, 2006), 194.

50. William Ralganal Benson, “The Stone and Kelsey ‘Massacre’ on the Shores of Clear Lake in 1849—The Indian Viewpoint,” *Quarterly of the California Historical Society*, 11 (1932), 268.

51. Palmer, *History of Napa and Lake Counties*, 2: 56.

52. According to L. L. Palmer the number was fifty; according to Augustine, it was one hundred. *Ibid.*, 2: 54, 59. According to Cook, they were taken “to Red Bluff to



arriving, Benjamin Kelsey began selling supplies to other miners and eventually “sold them all out of house and home, and had no supplies for himself, let alone the Indians.”<sup>53</sup> Pomo people later explained that these Indian men “were forced to do the hardest kind of work and were kept on very meager rations. Informants freely used the term ‘starved’ to describe the plight of these workers.”<sup>54</sup> Augustine recalled simply that Kelsey “did not feed the Indians.”<sup>55</sup> Conditions deteriorated further when malaria broke out.<sup>56</sup> Benjamin Kelsey now fell ill and abandoned the Indian men he had brought to the mines. According to Augustine, “two . . . died there” and the rest “wanted to go home. . . . On the road they all died from exposure and starvations, except three . . . men, who eventually got home.”<sup>57</sup> Palmer wrote that while “the estimates of the whites as to the number who returned range from one to twenty-five, it is possible that, and we shall not say at all improbable, that but only one or two of them ever returned.”<sup>58</sup> The demographer Cook concluded, “Probably between seventy-five and a hundred natives were taken to the valley, and probably not more than ten returned.”<sup>59</sup> Thus, Benjamin Kelsey’s willful neglect, combined with disease and exposure, killed as many as ninety-nine Indian men. Unfortunately, treating California Indians as disposable laborers continued for decades.

Meanwhile, even as California Indian laborers were dying, California’s military rulers began preparing to transfer authority to civilians. On June 3, 1849, the military governor Brevet Brigadier General R. Riley issued a proclamation “Recommending the formation of a State Constitution, or a plan of a Territorial Government,” thus providing an opportunity for the radical reformation of California’s Indian labor policies.<sup>60</sup> Some of the nascent state’s constitutional convention delegates wanted to do just that.

---

work in the mines.” Cook, “Conflict Between the California Indian and White Civilization,” 57.

53. Palmer, *History of Napa and Lake Counties*, 2: 55.

54. S. A. Barrett, “Material Aspects of Pomo Culture,” *Bulletin of the Public Museum of the City of Milwaukee*, 20, Part 2 (1952), 408.

55. Augustine in Palmer, *History of Napa and Lake Counties*, 2: 59.

56. Palmer, *History of Napa and Lake Counties*, 2: 55.

57. Augustine in *ibid.*, 2: 59.

58. Palmer, *History of Napa and Lake Counties*, 2: 55.

59. Cook, “Conflict Between the California Indian and White Civilization,” 57, n74.

60. Riley in Browne, *Report of The Debates*, 3.

### Early statehood, 1849–1863

Three times during California's 1849 constitutional convention, some delegates sought to enfranchise Indians and thus provide them with leverage against servitude. On September 12, after a debate that continued deep into the night, the convention delegates voted on a bill to bar Indians from voting. With the delegates deadlocked at twenty to twenty, the convention's chairman cast his "vote in the affirmative" and the amendment passed by a single vote.<sup>61</sup> Still, Indian enfranchisement advocates resurrected the Indian voting issue on September 29 when delegate Don Pablo de la Guerra emphasized the importance of Indian labor and the existence of Indian servitude: "All the work that was seen in California, was the work of Indians led by some foreigners. If they were not cultivated and highly civilized, it was because they had been ground down and made slaves of."<sup>62</sup> The debate over Indian enfranchisement continued, and delegates eventually voted on enfranchising propertied Indians. Yet, once again, a single vote thwarted the passage of Indian voting rights.<sup>63</sup> The final debate began on October 3, when de la Guerra proposed admitting "such Indians to the elective franchise as [state legislators] may in future deem capable thereof."<sup>64</sup> He won a partial victory.

The new constitution allowed the future state legislature, by a two-thirds vote, to enfranchise "Indians or the descendants of Indians, in such special cases as such a proportion of the legislative body may deem just and proper."<sup>65</sup> This extremely limited possibility of enfranchisement left California Indians vulnerable. The constitution did proclaim that, "Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State."<sup>66</sup> Yet by making the possibility of Indian voting remote at best, the constitution both denied Indians the political power with which to assert their new constitutional labor rights and overturned old Mexican laws that had enfranchised some California Indians.<sup>67</sup>

---

61. Browne, *Report of The Debates*, 73.

62. De la Guerra in *ibid.*, 305.

63. Browne, *Report of The Debates*, 307.

64. De la Guerra in *ibid.*, 323.

65. Constitution, Article II, Sec. 1 in Browne, *Report of The Debates*, Appendix, IV.

66. Constitution, Article I, Sec. 18 in *ibid.*

67. The 1816 Mexican Constitution enfranchised only persons with an income of at least 1,000 pesos while the 1842 *Bases Organicas* required voters to have an income of at least 200 pesos. Herbert Priestley, *The Mexican Nation, A History* (London, 1923), 272, 295.

On November 13, 1849, California voters (Indians excluded) ratified the new constitution and elected representatives. Then, on December 20, California established a civilian government and became self-governing. Finally, on September 9, 1850, the United States Congress admitted California to the Union as a free state.<sup>68</sup> The transition to civilian rule provided the newly elected state legislators with yet another opportunity to refashion California Indian labor policies.

The state legislature largely decided the legal position of California Indian laborers under state law during its first session. On March 23, 1850, legislators limited enfranchisement to “white male” citizens, effectively excluding all Indians from the political system.<sup>69</sup> Then, on April 22, Governor Peter Burnett signed the infamous “Act for the Government and Protection of Indians,” creating a state legal code that expanded existing martial law systems of servitude. The new act legalized *de jure* custodianship of Indian minors and two forms of Indian convict leasing.<sup>70</sup> Children could, with consent of “friends,” an extremely vague legal category, or “parents,” be held and worked without pay until age fifteen (for females) or eighteen (for males). “Any white person” could also visit a jailhouse and pay “said fine and costs” for any “Indian . . . convicted of an offence . . . punishable by fine.” Because few Indians had access to sufficient funds, jails became low-cost labor suppliers. Under this convict leasing scheme, Indian convicts then worked to pay off the fines their employer had paid on their behalf. Meanwhile, a closely related Indian convict leasing clause allowed for almost any free Indian to be taken into custody and worked without pay by empowering whites to arrest Indian adults “found loitering and strolling about, or frequenting public places where liquors are sold, begging, or leading an immoral or profligate course of life.” When a court received a “complaint” along these lines, the act required court officers to

---

68. Rockwell Hunt, “The Birth of the Commonwealth,” in Oscar Shuck, ed., *History of the Bench and Bar of California: being biographies of many remarkable men, a store of humorous and pathetic recollections, accounts of important legislation and extraordinary cases, comprehending the judicial history of the state* (Los Angeles, 1901), 42, 44.

69. California, *Statutes of California, Passed at the First Session of the Legislature* (San José, Calif., 1850), 102 (hereafter cited as California, *Statutes of California*, 1850).

70. California, *Journal of the Proceedings of the House of Assembly of the State of California; At its First Session, Begun and Held at Puebla de San José, on the Fifteenth Day of December, 1849* (San José, Calif., 1850), 1284 (hereafter cited as California, *Journal of the Proceedings of the House*, 1850).

capture and lease “such vagrant within twenty-four hours to the best bidder.” Successful bidders could then legally hold and work convicts for up to four months without compensation.<sup>71</sup> This second form of convict leasing legislation created what historian John Caughey called “the Sunday slave mart,” with the result that, according to Street, “Over the next thirteen years, thousands of natives were arrested and sold.”<sup>72</sup> The state itself thus sold California Indians into servitude.

Legal remedies available to Indians, in relation to the 1850 act, were limited. The act allowed Indians to complain to a justice of the peace and to take whites to court. Yet it stipulated that “forcibly convey[ing] any Indian from his home, or compel[ing] him to work” was punishable by a fine of “not less than fifty dollars.” However, the act also proclaimed that, “in no case shall a white man be convicted of any offence upon the testimony of an Indian” and that Indian testimony against a white could be rejected by “the Court or jury after hearing the complaint of an Indian.”<sup>73</sup> Like the 1850 act, such laws inscribed legislators’ notions of Native American racial inferiority into California statutes, creating the legal framework supporting the unholy traffic under civilian rule.

State legislators even more severely limited Indians’ ability to participate in criminal court cases unconnected to the 1850 act. On April 16, they banned Indians with “one half of Indian blood” or more from giving “evidence in favor of, or against, any white person” in criminal cases.<sup>74</sup> Four days later, state lawmakers banned Indians from serving as jurors.<sup>75</sup> Then, in 1851, they barred non-whites from becoming attorneys.<sup>76</sup>

---

71. California, *Statutes of California*, 1850, 408–410. On April 30, 1855 California legislators passed “An Act To punish Vagrants, Vagabonds, and Dangerous and Suspicious Persons.” It applied to “All persons except Digger Indians,” but its penalties were less draconian than those imposed upon Indians under the 1850 act and made no convict leasing provisions. California, *The Statutes of California, Passed at The Sixth Session of the Legislature, Begun on the first day of January, one thousand eight hundred and fifty-five, and ended on the seventh day of May, one thousand and eight hundred and fifty-five, at the city of Sacramento* (Sacramento, 1855), 217–218 (hereafter cited as California, *Statutes of California*, 1855).

72. John Caughey, *California* (New York, 1940), 380; Street, *Beasts of the Field*, 122.

73. California, *Statutes of California*, 1850, 409.

74. *Ibid.*, 230.

75. Only qualified electors could serve as jurors in California courts, so Indians—who had just been denied the franchise—could not serve as jurors. *Ibid.*, 288.

76. California, *The Statutes of California, passed at the second session of the legislature: Begun the sixth day of January, 1851, and ended on the first day of May, 1851, at the City of San Jose* (n.p.,

The 1850 act—buttressed by these additional, race-based laws—opened the door to mass abduction and a boom in involuntary California Indian servitude. White California agricultural labor costs that, during the 1850s, were frequently more than quadruple the average wages of farm laborers in New York or Pennsylvania, stoked demand for cheaper labor.<sup>77</sup> The laws supporting the unholy traffic, in combination with California's large Indian population, then made unfree Indian labor a viable way to satisfy that demand. As nineteenth-century historian Hubert Bancroft explained, "It was easy to charge any [California Indian] with vagabondage, especially by enlisting the potent aid of liquor, and obtain his condemnation to forced labor. The impressment generally occurred toward harvest time; and this over, the poor wretches were cast adrift to starve, for their own harvest season was by this time lost to them."<sup>78</sup> Indeed, according to one superintendent of Indian Affairs, eighteen enslaved Clear Lake Indians (Pomo and/or Wappo) starved to death after being abandoned following the 1852 harvest at Rancho San Pablo near San Francisco Bay.<sup>79</sup>

Further south, law enforcement officials arrested and sold Indians weekly with devastating effects. The lawyer Horace Bell recollected that, "Los Angeles had its slave mart . . . only the slave at Los Angeles was sold fifty-two times a year as long as he lived, which did not generally exceed one, two, or three years. . . . They would be sold for a week, and bought up by the vineyard men and others at prices ranging from one to three dollars, one-third of which was to be paid to the peon at the end of the week, which debt, due for well performed labor, would invariably be paid in 'auguardiente,' [fiery water]" thus catalyzing re-arrest by the marshal and another week "as slaves." Bell concluded: "thousands of honest, useful people were absolutely destroyed in this way."<sup>80</sup> Indeed, between 1850 and 1870, Los Angeles's Indian population fell from 3,693 to 219.<sup>81</sup>

---

1851), 48. The legislature repealed this act in 1878. Ferdinand Fernandez, "Except a California Indian: A Study in Legal Discrimination," *Southern California Quarterly*, 50 (1968), 165.

77. Jim Gerber, "The Origin of California's Export Surplus in Cereals," *Agricultural History*, 67 (1993), 41–43.

78. *The Works of Hubert Howe Bancroft*, vol. 24, *History of California, Vol. VII, 1860–1890* (San Francisco, 1890), 478.

79. Quoted by Arkansas senator William Sebastian in *The Congressional Globe*, March 3, 1853, in John Rives, *The Congressional Globe for the Second Session of the Thirty-Second Congress Containing Speeches, Important State Papers, Laws, Etc.* (46 vols., Washington, D.C., 1853), 22: 1085.

By 1852, some federal officials began protesting the new policies. In September, the first California Indian Affairs superintendent, E. F. Beale, wrote to the U.S. Indian Affairs commissioner in Washington, D.C. to remonstrate against the “new mode of oppression of the Indians, of catching them like cattle and making them work, and turning them out to starve and die when the work-season is over.”<sup>82</sup> Two months later Beale begged the commissioner to act, describing how, “hunted . . . like wild beasts, *lassoed*, and torn from homes [they are] forced into slavery,” while insisting, “I have seen it; and seeing all this, I cannot help them.” Beale concluded: “It is a crying sin that our government, so wealthy and powerful, should shut its eyes to the miserable fate of these rightful owners of the soil.”<sup>83</sup> Still, Beale’s protests—like the dozens that would follow—had little impact on Washington’s California Indian policies.

Meanwhile, violent kidnapping continued as California’s non-Indian population surged to over 231,000 people by 1852, thus increasing demand for unfree California Indian laborers.<sup>84</sup> Late that year, Contra Costa County district attorney R. N. Woods wrote that four Napa County men “are in the habit of kidnapping Indians in the mountains near Clear lake, and in their capture several have been murdered in cold blood.” The numbers kidnapped were substantial: “There have been Indians to the number of one hundred and thirty-six thus captured and brought into this county, and held here in servitude adverse to their will.” Woods concluded, “[T]he statutes of this State afford no adequate protection against cruel treatment of Indians.”<sup>85</sup> Over the next eight years, state legislators passed a series of acts that made it even easier to capture and work California Indians against their will.

---

80. Horace Bell, *Reminiscences of a Ranger or, Early Times in Southern California* (Los Angeles, 1881), 48–49.

81. George Harwood Phillips, “Indians in Los Angeles, 1781–1875: Economic Integration, Social Disintegration,” *Pacific Historical Review*, 49 (1980), 448.

82. California Superintendent of Indian Affairs Beale to Commissioner of Indian Affairs Lea, Sept. 30, 1852, S. Doc. 57, 32 Cong., 2 sess. (1853), 9.

83. E. F. Beale, Superintendent Indian Affairs to Luke Lea, Commissioner of Indian Affairs, Washington, D.C., Nov. 22, 1852, S. Ex. Doc. 4, 33 Cong., Spec. Sess. (1853), 378. Italics original.

84. 1852 California State census summarized in *San Francisco Daily Alta California*, Dec. 23, 1853, p. 2.

85. R. N. Woods in J. H. Jenkins to Superintendent Beale, Jan. 13, 1853, S. Ex. Doc. 57, 32 Cong., 2 sess. (1853), 10.

As slave raiding continued, state legislators further weakened California Indians' ability to defend themselves by denying them access to arms and ammunition. The March 24, 1854 "Act to Prevent the Sale of Fire-arms and Ammunition to Indians" made violations punishable by a fine of \$25 to \$500 and/or a jail sentence of one to six months.<sup>86</sup> In effect until 1913, the act helped whites to monopolize firepower and thus bolstered slave raiders' major tactical advantage: firearms.<sup>87</sup> With the superior range of muskets and rifles, miners, ranchers, and farmers could kill California Indians from beyond the range of bows and arrows and then swoop in to take women and children. This 1854 legislation helped to make kidnapping and slaving raids less dangerous for the perpetrators by perpetuating and exacerbating the military asymmetry between California Indians and non-Indians.<sup>88</sup> That October, special agents reported "something like One hundred and fifty Indians whose condition is that of Slavery [in Berryessa] Valley on the Puta Creek . . . driven in . . . by violence" as well as "the practice of selling the Young Indians" there.<sup>89</sup> That same month, San Francisco's *Daily Alta California* reported that, "ABDUCTING INDIAN CHILDREN . . . has become quite common. Nearly all the children belonging to some of the Indian tribes in the northern part of the State, have been stolen," thus suggesting that the law sustained, and perhaps increased, kidnapping and slave raiding.<sup>90</sup>

Despite additional warnings in 1855, the army refused to intervene, thus emboldening kidnappers and slave raiders. For example, on May 17, Robert White reported from Mendocino to California Indian Affairs superintendent Thomas Henley that men from Cache Creek had "stolen three Indians—a woman and two boys . . . to sell them, or trade them for cattle, which has been much practiced of late, by a parties from a distance."<sup>91</sup> U.S. secretary of war Jefferson

---

86. Theodore Hittell, *The General Laws of the State of California, from 1850–1861* (San Francisco, 1865), 532.

87. California, *The Statutes of California and Amendments to the Codes Passed at the Fortieth Session of the Legislature, 1913* (Sacramento, 1913), 57.

88. Fernandez, "Except a California Indian," 167.

89. Wm. McDaniel and Wm. McQueen on Special Duty to Thos. Henley Esq. Superintendent of Indian Affairs for California, Oct. 4, 1854, in *Letters Received by the Office of Indian Affairs, 1824–1880, California Superintendency, 1849–1880, National Archives and Records Administration* (Washington, D.C., 1966), Record Group 75, M234, 33: 407–408 (hereafter cited as RG 75, M234).

90. *San Francisco Daily Alta California*, Oct. 2, 1854, p. 2. Capitalization original.

Davis—who would soon champion slavery as President of the Confederacy—then refused Superintendent Henley’s request for federal troops to arrest slave raiders, replying to the Secretary of the Interior that such arrests were “the appropriate duty of the civil officers [and if] necessary, the posse comitatus.”<sup>92</sup> Given the State of California’s reluctance to capture and prosecute such criminals, kidnapping and slave raiding continued. On August 9, White wrote from Mendocino to inform Henley that, “In[dian] reports . . . say the Spaniards stole twenty or twenty five young women and killed One” and on August 20 he wrote from “Mah-to Valley” (Mattole Valley) that “an Indian came to our Camp and reported . . . a lot of Squaws and children” stolen and taken away.<sup>93</sup> Davis’s refusal to deploy U.S. troops already stationed in California amounted to a tacit grant of federal legal impunity to those trafficking in and holding unfree California Indian labors.

Meanwhile, state legislators amended the 1850 act that year. On April 28, 1855, they theoretically made it easier for Indians to serve as witnesses in cases related to the 1850 act. Accordingly, “Complaints may be made before a Justice of the Peace, by white men or Indians, and in all cases arising under this Act, Indians shall be competent witnesses, their credibility being left with the jury.”<sup>94</sup> However, this amendment had little impact on the unholy traffic. In May, a newspaper reported that while authorities sent one kidnapper to state prison, “A large number of the children have been brought down and sold in the agricultural counties.”<sup>95</sup>

On the rare occasions when law enforcement officials and judges did intervene, kidnapping rings could be smashed. For example, on March 18, 1856 Contra Costa County judge R. N. Wood reported to Henley that when he served as “presiding Judge” in Contra Costa’s Court of Sessions, “I . . . prosecuted to conviction several persons who violated the laws of U.S. + of Cal[ifornia] in Kidnapping Indians.” Moreover, “those prosecutions were the

91. May 17, 1855 postscript, Robt. White to T. J. Henley Esq., Supt. Ind. Affs., May 13, 1855, in RG 75, M234, 34: 545.

92. Jeffn. Davis, Secretary of War, to R. McClelland, Secretary of the Interior, May 23, 1855, in *ibid.*, 1000. Underlining original.

93. Robt. White to Col. T. J. Henley, Aug. 9, 1855, in *ibid.*, 667; Robt. White to Col. T. J. Henley, Aug. 20, 1855, in *ibid.*, 685.

94. California, *Statutes of California*, 1855, p. 179.

95. *Placer Times and Transcript in Eureka Humboldt Times*, May 5, 1855, p. 1.



immediate + direct means by which the Kidnapping of Indians in that section of Cal[ifornia] was broken up.”<sup>96</sup> Unfortunately, successful prosecution was unusual. California law enforcement officials rarely charged men for kidnapping or enslaving Indians during the 1850s, and California courts handed down very few guilty verdicts in such cases.

Unsupported by California’s legal system, Superintendent Henley and other Indian agents continued to report the unholy traffic in attempts to encourage federal intervention. In April of 1856, Henley fairly roared to the United States Indian Affairs Commissioner: “I have undoubted evidence that hundreds of Indians have been stolen and carried into the settlements and sold; in some instances entire tribes were taken en masse.” Henley emphasized the murderous nature of these raids: “In many of the cases . . . fathers and mothers have been brutally killed when they offered resistance to the taking away of their children.”<sup>97</sup> Henley was not alone in issuing such warnings. That summer, Indian agent E. A. Stevenson reported from Mendocino County on a “system of slavery” in which whites “seem to have adopted the principle that they (the Indians) belong to them as much as an African slave does to his master.”<sup>98</sup> By consistently ignoring such warnings, Washington, D.C. policy makers effectively condoned the unholy traffic and its horrors.

The most lethal recorded instance of treating California Indians as disposable labor occurred at about this time. According to a Round Valley resident in Mendocino County, “about three hundred died on the reservation [during the winter of 1856–1857], from the effects of packing them through the mountains in the snow and mud. . . . [T]hey were worked naked, with the exception of deer skin around their shoulders—some few had pantaloons and coats on; they usually packed fifty pounds, if able. . . .”<sup>99</sup> Even on a federal reservation California Indians were not safe from lethal servitude.

---

96. R. N. Wood to Thos. Henley, March 18, 1856, in RG 75, M234, 35: 309–310.

97. Thos. Henley, Sup. Ind. Affrs., Cal., to Geo Manypenny, Comr. of Indian Affairs, April 14, 1856, in *ibid.*, 312.

98. E. A. Stevenson to Thomas J. Henley, July 31, 1856, in United States Office of Indian Affairs, *Report of the Commissioner of Indian Affairs, Accompanying the Annual Report of the Secretary of the Interior, for the Year 1856* (Washington, D.C., 1857), 251.

99. Benjamin Arthur, deposition, Feb. 28, 1860, in California, *Majority and Minority Reports of the Special Joint Committee on the Mendocino War* (Sacramento, 1860), 51.

Newspapers also publicized kidnapping and convict leasing. For example, in 1857 a hunter reported on what was likely to have been Mattole Valley: “The region is filled at this season with American hunters. . . . many of the hunters were . . . carrying on a traffic in which they had previously been engaged, to wit: kidnapping Digger children and selling them in different parts of the country.” Murder accompanied such raids: “A great many Indians have thus been shot down in cold blood by these white savages, and the inhuman practice of kidnapping is now going on with the steadiness of a regular system.” Indeed, “hundreds of lawless white men [in Humboldt County] make their money . . . partly by the system of kidnapping above alluded to. This latter practice is common in various parts of the country.”<sup>100</sup> To the south, newspapers reported how authorities arrested Indians for small offenses and then auctioned them off “to the highest bidder” in Fresno County.<sup>101</sup>

Escape was one way that California Indians defied servitude, but whites sometimes responded with lethal force. For example, the Lassik/Wailaki Indian woman Lucy Young, who herself escaped servitude multiple times, recollected: “Young woman been stole by white people, come back. Shot through lights and liver. Front skin hang down like apron. She tie up with cotton dress. Never die, neither.”<sup>102</sup> Others were less fortunate. After “George Lane’s squaw” fled “her lord and master” with “his Indian boy” in 1858, whites “killed some fifteen” California Indians on Battle Creek.<sup>103</sup> Two years later, a rancher on the Van Duzen River became so incensed after his Indian servant visited his family, half a mile away, that he “slaughtered the whole family—of about six persons—boy and all.”<sup>104</sup> Despite such reports, policy makers failed to intervene, while almost all law enforcement officials turned a blind eye, perhaps in part because demand for unfree labor continued as California’s non-Indian population surpassed 362,000 people in 1860.<sup>105</sup>

---

100. *Sacramento Daily Bee*, July 21, 1857, p. 2.

101. *Napa County Reporter*, Dec. 18, 1858, p. 2. See also *Marysville Express*, March 5, 1859, in Street, *Beasts of the Field*, 126.

102. Lucy Young in Edith V. A. Murphey and Lucy Young, “Out of the Past: A True Indian Story Told by Lucy Young, of Round Valley Indian Reservation,” *California Historical Quarterly*, 20 (1941), 358.

103. E. W. Inskeep to Editors, April 28, 1858, and editor in *Red Bluff Beacon*, May 5, 1858, p. 2.

104. *San Francisco Daily Evening Bulletin*, June 1, 1860, p. 2.

In fact, rather than stopping the unholy traffic, in April of 1860 California legislators, faced with persistent demand for unfree Indian laborers and a California Indian population that had plummeted to perhaps 35,000 people, opened the door to even more widespread California Indian servitude.<sup>106</sup> First, they expanded the 1850 act by legalizing the “indenture” of “any Indian or Indians, whether children or grown person,” including “prisoners of war” and “any vagrant Indian” as “apprentices, to trades, husbandry, or other employments.” California legislators thus created their own blend of two traditionally separate forms of unfree labor: indentured servitude and apprenticeship. Second, legislators gave judges the power to “bind” and apprentice Indian minors without the consent of their parents or guardians. Third, they allowed white employers to retain Indians indentured as minors beyond their attainment of majority age. Thus, boys under fourteen could be indentured until they turned twenty-five and girls under fourteen until twenty-one. Fourth, teenagers indentured “over fourteen and under twenty years of age, if males” could be held “until they attain[ed] the age of thirty years; if females, until they attain[ed] the age of twenty-five years.” Finally, Indians over age twenty could be indentured for a fixed term of ten years. In sum, the 1860 law dramatically lowered barriers to acquiring involuntary Indian servants and substantially expanded *de jure* servitude terms.<sup>107</sup>

The following month, California Indian slavery reached the U.S. Senate floor. Massachusetts senator Henry Wilson thundered against the fact “that Indians are hunted down in some portions of the State of California . . . and the children . . . in certain cases sold as slaves.” Wilson insisted: “the abuses that have been perpetrated upon the Indians in California are shocking to humanity, and this Government owes it to itself to right their wrongs.”<sup>108</sup> Kentucky

---

105. Joseph Kennedy, *Population of the United States in 1860* (Washington, D.C., 1864), 28.

106. The 1860 census counted just 17,798 California Indians and was likely an undercount. C. Hart Merriam later estimated 35,000 alive that year. See Francis Walker, United States Census Office, *The Statistics of the Population of the United States, Embracing the Tables of Race, Nationality, Sex, Selected Ages, and Occupations . . .* (Washington, D.C., 1872), 16 (hereafter cited as *Statistics of the Population of the United States*), and Merriam, “Indian Population of California,” 600.

107. California, *The Statutes of California, Passed at the Eleventh Session of the Legislature, 1860* (Sacramento, 1860), 196–197.

108. Henry Wilson, May 26, 1860, in John Rives, *The Congressional Globe: Containing the Debates and Proceedings of the First Session of the Thirty-Sixth Congress* (46 vols., Washington, D.C., 1860), 29: 2366.

senator John Crittenden then pressed the attack, asserting that California Indians “are subject to . . . slavery and oppression and murders.”<sup>109</sup> Still, the Senate—struggling to keep the Union together in the months leading up to the Southern secessions—took no action. This failure to address California Indian slavery was no surprise, as slavery was the issue driving the North and South apart. Still, federal inaction had dire consequences.<sup>110</sup>

The 1860 indenture legislation catalyzed an 1861 kidnapping boom. That January a correspondent described “WHOLESALE KIDNAPPING,” noting that “parties, recently connected with the Nome-Lackee Reservation, have lately procured the services of the County Judge of Tehama to indenture to them, for a term varying from ten to twenty years, all of the ‘most valuable’ (that smacks of cottondom) Indians on the Reservation.”<sup>111</sup> Others praised the legislation. In February, a *Humboldt Times* article on “APPRENTICING INDIANS” observed: “This law works beautifully. . . . V. E. Geiger, formerly Indian agent, has some eighty apprenticed to him. . . . We hear of many others who are having them bound in numbers to suit.”<sup>112</sup> Indeed, the Colusa County court indentured dozens of Indians in 1861, while the Humboldt County court indentured seventy-seven others that year, the youngest a two-year-old indentured for twenty-three years.<sup>113</sup>

Most bystanders were horrified. In May, Army lieutenant Edward Dillon reported on this “brutal trade,” explaining that, “there are several parties of citizens now engaged in stealing or taking by force Indian children from the district in which I have been ordered to operate.” Dillon specified that, “as many as forty or fifty Indian children have been taken through Long Valley [in Mendocino County] within the last few months and sold.”<sup>114</sup> In July the *Sacramento Daily Union* attacked the 1860 law as a violation of California’s constitution, asking, “If this does not fill the measure of the constitutional term, ‘involuntary servitude,’ we shall be thankful if some

---

109. John Crittenden in *ibid.*, 2368.

110. South Carolina, the first state to secede, left the Union on December 20, 1860.

111. *Red Bluff Independent* correspondent in *Marysville Daily Appeal*, Jan. 4, 1861, p. 2.

112. *Eureka Humboldt Times*, Feb. 23, 1861, p. 3.

113. Magliari, “Free State Slavery,” Table 1, 170–171; Heizer and Almquist, *Other Californians*, 54–56.

114. Edward Dillon, 2d. Lt., 6th Inf. to Capt. C. S. Lovell, Comdg. Sixth Infy., May 31, 1861, in United States War Department, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies, Series 1* (53 vols., Washington, D.C., 1897), vol. 50, pt. 1: 494–495 (hereafter cited as *War of the Rebellion*, 1:50:1).

one [*sic*] will inform us what is lacking.”<sup>115</sup> Later that year, a *Boston Transcript* correspondent visited northwestern California and described “Indians . . . being hunted *for their children*.” The author noted that to capture these children—who sold for \$50 to \$100—slavers “make war on the Indians.” The correspondent “stopped at one house on the trail in the deep gorges of the mountains, and saw six poor naked urchins who had been recently captured.” Their jailor, a “brutal rascal pointed to one boy and said, with the greatest coolness imaginable, that he ‘had killed his daddy yesterday, and thought he was not quite big enough to kill, so he brought him in,’ and showed us a huge knife with which he had slaughtered the unresisting native.”<sup>116</sup> That same month the *Marysville Appeal* railed against “vile kidnappers in human flesh making a regular business of killing the Indians in the mountains, or running them off, and kidnapping their children, packing them about the country, like so many sheep or swine to sell, at retail or wholesale.”<sup>117</sup> Still, such reports failed to change state or federal policies.

Instead, army operations sometimes facilitated slaving. On July 15, Northern California Indian Affairs superintendent George M. Hanson reported that, “In the frontier portions of Humboldt and Mendocino counties a band of desperate men have carried on a system of kidnapping for two years past: Indian children were seized and carried into the lower counties and sold into virtual slavery. These crimes against humanity so excited the Indians that they began to retaliate by killing the cattle of the whites.” Following this resistance, “At once an order was issued to chastise the guilty.” Thus, “a company of United States troops, attended by a considerable volunteer force, has been pursuing the poor creatures from one retreat to another. The kidnappers follow at the heels of the soldiers to seize the children when their parents are murdered and sell them to the best advantage.”<sup>118</sup>

---

115. *Sacramento Daily Union*, July 31, 1860, p. 4.

116. *Boston Transcript* correspondent in *Amherst (N.H.) Farmer's Cabinet*, Sept. 20, 1861, p. 2. Italics original.

117. *Marysville Appeal*, Oct. 17, 1861, p. 3.

118. Geo. M. Hanson, Superintending Agent Indian Affairs, Northern District of California to William P. Dole, Commissioner of Indian Affairs, July 15, 1861, in United States Office of Indian Affairs, *Report of the Commissioner of Indian Affairs, Accompanying the Annual Report of the Secretary of the Interior, For the Year 1861* (Washington, D.C., 1861), 149.

To stem the rising tide of murderous kidnapping, on July 23, 1861, Superintendent Hanson beseeched his Washington, D.C. superiors to challenge the 1860 law facilitating this “brutal trade.” Hanson insisted that, “The laws Should be so changed or made, as to protect the Indians against kidnaping [*sic*].” He explained: “There is a Statute in California providing for the indenturing of Indians to white people for a term of years. Hence under Cover of this law . . . many persons are engaged in hunting Indians.” Hanson detailed the organization of such operations: “Even regular organized Companies with their Pres. Sec. + Treas. are now in the mountains and while the troops are engaged in killing the men for alleged offences, the kidnappers follow in close pursuit, Seize the younger [I]ndians and bear them off to the white settlements in every part of the Country filling the orders of those who have applied for them at rates varying from 50. to 200.\$ a piece.” Hanson concluded by underscoring the centrality of state law to this human trafficking, while challenging its legality: “Such acts of injustice and violence are now tolerated by an unconstitutional law (as I believe) of this state.”<sup>119</sup> Still, federal judges and policy makers—now facing an expanding Civil War—took little action.

In at least one instance, Hanson did prosecute slavers but found the court spectacularly unsupportive. In October he described how he “apprehended three kidnappers, about fourteen miles from the city of Marysville, who had nine Indian children, from three to ten years of age, which they had taken from Eel river, in Humboldt county.” However, “One of the three was discharged on a writ of *habeas corpus*, upon the testimony of the other two, who stated that ‘he was not interested in the matter of taking the children.’” Once released by this perversion of the legal system, the man testified on behalf of the other two that, “‘it was an act of charity on the part of the two to hunt up the children and then provide homes for them, because their parents had been killed, and the children would have perished with hunger.’” Hanson’s “counsel inquired ‘how he knew their parents had been killed?’ ‘[B]ecause,’ said he, ‘I killed some of them myself.’” Authorities then released the suspects on bail and placed the children in “good homes.” By New Year’s Eve a despondent Hanson reported that,

---

119. Geo. Hanson, Supt. Ind. Aff. N. Dist. Cal., to Chas. Mix, July 23, 1861, in RG 75, M234, 38: 141–142.

“kidnapping Indians has become quite a business of profit, and I have no doubt is at the foundation of the so-called Indian wars.”<sup>120</sup> Indeed, the drive to obtain unfree labor did catalyze attacks on California Indians.

Indian convict leasing also continued that year. The journalist J. Ross Browne wrote that, “In the vine-growing districts they were usually paid in native brandy every Saturday night, put in jail next morning for getting drunk, and bailed out on Monday to work out the fine imposed upon them by the local authorities. This system still prevails in Los Angeles.”<sup>121</sup> It would persist for years.

To the north, soldiers continued to report kidnapping and slave raiding in 1862. On January 12, Army colonel Francis Lippitt wrote from Humboldt of “Individuals and parties . . . constantly engaged in kidnapping Indian children, frequently attacking the rancherias, and killing the parents for no other purpose.” Lippitt explained: “This is said to be a very lucrative business, the kidnapped children bringing good prices, in some instances, Mr. Hanson tells me, hundreds of dollars apiece.”<sup>122</sup> To the south, Captain Thomas Ketchum reported from Fort Baker on April 3: “I have been informed that there are quite a number of citizens who intend, as soon as the snow goes off, to make a business of killing the bucks wherever they can find them and selling the women and children into slavery. . . . to certain parties at \$37.50 per head, who put them in a covered wagon, take them down to the settlements, and there dispose of them at a very handsome profit.” Ketchum quantified that profitability: “One person is said to have made \$15,000 last season in the business” and calculated that if “one ranch is taken with ten women and twenty children, it amounts to the sum of \$1,125.”<sup>123</sup> Two months later, another officer wrote from Mattole Valley: “It is well known that kidnapping is extensively practiced by a gang who live in the neighboring mountains” and that such crimes

---

120. Hanson to Dole, Dec. 31, 1861, 315. Italics original.

121. J. Ross Browne, “The Coast Rangers: A Chronicle of Events in California, II—The Indian Reservations,” *Harper’s New Monthly Magazine*, 23 (Aug. 1861), 306–307.

122. Francis Lippitt, Col. Second California Vol. Infnty., Comdg. Humboldt Mil. Dist. to Maj. R. C. Drum, Assistant Adjutant-General, Department of the Pacific, Feb. 12, 1862, in *War of the Rebellion*, 1:50:1, 803.

123. Thomas Ketchum, Captain, Third Infantry California Volunteers to Lieut. John Hanna, Jr., Acting Assistant Adjutant-General, April 3, 1862 in *ibid.*, 982.

are “coupled with other barbarities, murder, rape, &c., which no pen can do justice to.”<sup>124</sup>

The unholy traffic may have expanded in 1862. On July 15, a correspondent reported that “in Mendocino, Humboldt, Del Norte and Klamath [counties there] flourishes a class of pestilent whites whose business it is, or has been until recently, to kill Indian ‘bucks’ and squaws for the purpose solely of getting and selling their children.” According to the correspondent, “children fetch in this county a market price, which ranges from \$30 to \$200. They may be seen in every fourth white man’s house, and are frequently the brightest and cunningest [*sic*] chaps you ever saw.”<sup>125</sup> The next month, the same correspondent described “Indian Baby Hunters” ranging from Sonoma north to the Oregon border and concluded, “You may hear them talk of the operation of cutting to pieces an Indian squaw in their indiscriminate raids for babies as ‘like slicing old cheese.’”<sup>126</sup>

Reports suggest that raiders likely captured hundreds of California Indians in 1862. For example, Helen Carpenter recollected that, on March 24, 1862, a Mr. Woodman drove “a wagonload of almost nude [Indian] boys and girls” into Ukiah in Mendocino County.<sup>127</sup> That fall, in Lake County, August Hess “saw a number of men driving Indian children before them to sell in Napa, Solano, Yolo, and other counties in the Sacramento basin. In one instance, he saw two men driving nine children; in another, two men with four children; in another, one man with two girls. . . .” Moreover, “rumor says that about one hundred children have been taken through Lake county this Summer, for sale” and that raiders caught children in Humboldt and Mendocino counties “after killing their parents” and shooting children who attempted to escape.<sup>128</sup>

California Indian servitude under U.S. rule may have reached its zenith in 1862. At a local level, Carpenter estimated that in Ukiah “there were few families in town that did not have from one to three

---

124. Charles Hubbard, First Lieut., Second Infantry California Vols., Comdg. Detachment to Francis Lippitt, Commanding Humboldt Military District, June 20, 1862 in *ibid.*, 74.

125. Humboldt correspondent, July 15, 1862, in *Sacramento Daily Union*, July 19, 1862, p. 3.

126. Humboldt correspondent, Aug. 31, 1862, in *ibid.*, Sept. 18, 1862, p. 1.

127. Helen Carpenter, “Among the Diggers of Thirty Years Ago, Part II,” *Overland Monthly and Out West Magazine*, 21 (1893), 389.

128. *San Francisco Daily Alta California*, Oct. 5, 1862, p. 2.



Indian children.”<sup>129</sup> At a regional level, as already described, one correspondent estimated a kidnapped native child in “every fourth white man’s house” in northwestern California.<sup>130</sup> Across the state, whites held California Indians in both *de jure* and *de facto* unfree labor arrangements. As far south as San Diego County, the rancher Cave Couets harnessed state laws to ensnare Southern California Indians as *de jure* wards, apprentices, indentures, and leased convicts as well as *de facto* debt peons.<sup>131</sup> Nevertheless, a proclamation issued thousands of miles to the east soon began to change California’s Indian labor policies.

### Dismantling California Indian servitude, 1863–1937

Abraham Lincoln catalyzed the protracted dismantling of California Indian servitude by putting his Emancipation Proclamation into force on January 1, 1863.<sup>132</sup> It freed slaves in the rebellious states, but California’s legislature—now dominated by antislavery Republicans—responded by modifying California’s Indian labor laws. On April 27, 1863, California governor Leland Stanford signed an act repealing those sections of the 1850 and 1860 acts that allowed for the custodianship and indenture of Indians, both children and adults.<sup>133</sup> It was a clear demonstration of Washington’s power to shape state labor laws and, in turn, the ability of a transnational social movement to shape local political will. Abolitionists fighting against Atlantic World chattel slavery influenced Lincoln and, through Lincoln, California legislators, who began unmaking the unholy traffic.

Still, California legislators hedged. On March 18, they passed a law reiterating that, “No Indians, or person having one half or more of Indian blood . . . shall be permitted to give evidence in favor or against any white person.” This did not apply to the provisions of the

---

129. Carpenter, “Among the Diggers of Thirty Years Ago, Part II,” 391.

130. Humboldt correspondent, July 15, 1862, in *Sacramento Daily Union*, July 19, 1862, p. 3.

131. Magliari, “Free Soil, Unfree Labor,” 371–373.

132. The Emancipation Proclamation, Jan. 1, 1863, online at [http://www.archives.gov/exhibits/featured\\_documents/emancipation\\_proclamation/transcript.html](http://www.archives.gov/exhibits/featured_documents/emancipation_proclamation/transcript.html) (accessed June 15, 2012).

133. California, *The Statutes of the State of California Passed at the Fourteenth Session of the Legislature, 1863, begun on Monday, the fifth day of January, and ended on Monday, the twenty-seventh day of April* (Sacramento, 1863), 743 (hereafter cited as California, *Statutes of California*, 1863).

1850 act that permitted Indian testimony in court cases against whites arising under the act, but it did limit Indians' ability to challenge other forms of unfree labor in California courts.<sup>134</sup> Meanwhile, Indian convict leasing remained legal, kidnapping continued, and illicit California Indian slavery persisted even as the Civil War drew to a close.

Kidnapping continued to be accompanied by murder, as when raiders stabbed "a crippled Indian boy" to death near the North Fork of Cottonwood Creek in 1865 for trying to stop them from taking his ten-year-old sister.<sup>135</sup> Masters could also be monstrous. In August 1865, Bob Hildreth tied his Indian servant to a rope and dragged him behind his horse until "the Indian was terribly mangled, his arms being twisted off in his shoulders." Nearby, "James Shores, an Indian slaveholder . . . shot one the other day, because he would not stand and be whipped." Reporting these barbarities, a Mendocino County correspondent observed that Indians "are held here as slaves were held in the South."<sup>136</sup> That same month, a journalist concluded "that slavery exists in California in precisely the same condition that it did until lately in the Southern States. There the blacks; here in almost every county Indians are unlawfully held as chattels."<sup>137</sup> For decades, California Indians fought against and weakened the unholy traffic by hiding from kidnappers and slave raiders, resisting their attacks, and escaping bondage. Soon after the last Confederate troops surrendered, federal lawmakers finally attacked California's peculiar institution, albeit indirectly.

Congressmen struck blows against California Indian servitude in 1865 and 1867. The Thirteenth Amendment banned most forms of involuntary unfree labor, stating that, "Neither slavery nor involuntary servitude, except as punishment for crime whereof the party have been duly convicted, shall exist within the United States."<sup>138</sup> California legislators ratified the amendment thirteen days later, reemphasizing federal power to shape state labor laws.<sup>139</sup> Yet, the

---

134. "An Act to Amend an Act Concerning Crimes and Punishments," (March 18, 1863) in California, *Statutes of the State of California*, 1863, p. 69.

135. *Shasta Courier*, Nov. 18, 1865, p. 2.

136. Ukiah City Correspondent, Aug. 13, 1865, in *Sacramento Daily Union*, Aug. 19, 1865, p. 2.

137. *San Francisco California Police Gazette*, Aug. 26, 1865, p. 2.

138. *The Declaration of Independence and the Constitution of the United States of America* (Washington, D.C., 2002), 48.

amendment—like California’s 1849 Constitution—allowed convict labor and ostensibly voluntary forms of servitude such as debt peonage. Meanwhile, both legal and illegal California Indian servitude persisted. On New Year’s Day 1867, an Indian Affairs commissioner’s special investigator reported that Indian slavery was “not uncommon” in California.<sup>140</sup> Congress struck a second, more effective blow against California Indian servitude that March with its “Act to Abolish and Forever Prohibit the System of Peonage in the Territory of New Mexico and Other Parts of the United States.” This law closed the Thirteenth Amendment’s “voluntary servitude” loophole, while criminalizing various offences related to peonage and other forms of forced labor.<sup>141</sup> Still, as late as 1869, farmers continued to assemble at the Los Angeles mayor’s office on Monday mornings to obtain Indian convict laborers.<sup>142</sup>

State judicial reform would prove crucial to eliminating much of the remaining unholy traffic, but only as the supply-and-demand equation changed. By 1870, murderous slave raiding, the separation of men and women, and the lethal practice of disposable Indian servitude had helped to reduce California’s Indian numbers. From a population of perhaps 150,000 in 1845, California’s Indian population plunged to perhaps 30,000 by 1870.<sup>143</sup> Meanwhile, California’s non-Indian population surged from 13,000 or 14,000 in 1848 to over 553,000 by 1870.<sup>144</sup> Thus the pool of potential California Indian laborers shrank dramatically relative to the statewide labor supply, decreasing the importance of the unholy traffic to California’s economy and apparently diminishing political resistance to ending unfree California Indian labor.

---

139. Robert Brady and U.S. House of Representatives, *The Constitution of the United States of America as Amended: Unratified Amendments, Analytical Index* (Washington, D.C., 2007), 16.

140. Rob’t Stephens, Special Commissioner, & c. to Lewis Bogy, Commissioner of Indian Affairs, Jan. 1, 1867, in United States Office of Indian Affairs, *Report on Indian Affairs, by the Acting Commissioner, for the Year 1867* (Washington, D.C., 1868), 117.

141. 18 United States Code, Chapter 77, Sections § 1581–1588.

142. *Los Angeles Daily News*, Feb. 11, 1869, p. 2.

143. Cook, *Population of California Indians*, 44. In 1870 census takers counted 7,241 California Indians but this was almost certainly an undercount. Merriam later estimated 30,000 alive that year. See *Statistics of the Population of the United States*, 16, and Merriam, “Indian Population of California,” 600.

144. *Works of Hubert Howe Bancroft*, 23: 3; Rohrbough, *Days of Gold*, 8; *Statistics of the Population of the United States*, 4, 5, 8.

During the early 1870s, California legislators and state Supreme Court justices abolished a major form of judicial inequality that had supported California Indian servitude for decades. In his 1867 inaugural address, California governor Henry Haight, a Republican-turned-Democrat, rejected both “Asiatic” immigration and the enfranchising of non-whites. Within these limits, he argued that, “inferior races [should] have their civil rights” and that, “The general statutes of the State are in great need of revision.”<sup>145</sup> He then appointed a commission which wrote state civil and penal codes to read, “All persons, without exception, otherwise than are specified in the next two sections, who, having organs of sense, can perceive, and, perceiving, can make known their perceptions to others, may be witnesses.” In February and March 1872, legislators approved the new codes as did the new governor, Republican Newton Booth.<sup>146</sup> That October, California’s Supreme Court ruled that, “The Codes will be in full force on the first of January next; and thereafter no witness will be excluded in any case on account of nationality or color.”<sup>147</sup> Thus, when the new codes went into effect in 1873, judges and juries could no longer summarily reject Indian testimony—at least not legally—and slavers lost a major legal protection. As a result, there are relatively few extant reports of unfree California Indian labour after 1873. The tragic irony is that by the time these laws came into effect, relatively few California Indians remained alive to be protected by them.

Still, post-1873 reports of ongoing unfree California Indian labor do exist, and federal Indian agents were sometimes at fault. For example, in 1874, California booster Charles Nordhoff described unfree labor at Round Valley Indian Reservation. He explained, “When they need laborers they detail such men or women as they require, and these go out to work. They seldom refuse; if they do, they are sent to the military post, where they are made to saw wood.” Nordhoff added that soldiers held these Indians against their will: “If it were not for the small military force at Camp Wright,

---

145. Henry Haight, *Inaugural Address of H. H. Haight* (New York, 1868), 13, 16.

146. Creed Haymond and John Burch, eds., *The Penal Code of the State of California* (San Francisco, 1874), 455, 536; Warren Olney, comp., *The Code of Civil Procedure of the State of California* (San Francisco, 1872), 605.

147. *People v. McGuire* (1872).

Mr. Buchard, the agent, could not keep an Indian on his reservation."<sup>148</sup> Meanwhile, at least one form of *de jure* unfree Indian labor remained.

It is difficult to know when California Indian convict leasing ended in practice, but California legislators finally abolished it in 1937, when they terminated all remaining elements of the 1850 Indian Act.<sup>149</sup> President Franklin Roosevelt's Indian New Deal was then in full swing, once again suggesting federal influence over state labor policies.

Supply, demand, and political will had helped drive the rise and fall of California's unholy traffic. Under martial law, U.S. officials institutionalized unfree California Indian labor. Thus they continued the Mexican practice of overcoming the local non-Indian labor shortage by employing California Indians, often without allowing them the freedom to quit. Over 500,000 immigrants flooded into California between 1846 and 1870. This rapid mass migration dramatically increased demand for labor, and employers initially turned to California's Indian population—then one of the largest in the nation—often employing them as bound laborers. Intense demand and a large indigenous population created the conditions in which the scale of California's unholy traffic, relative to systems of Indian servitude elsewhere in the nineteenth-century United States, was possible. Yet supply and demand alone cannot explain the unholy traffic. Sustained political will—at both the state and federal levels—led to the creation of the racist laws and policies that facilitated the bondage of at least 20,000 California Indians under U.S. rule.

Falling supply, a growing labor market, and, most importantly, shifting political attitudes facilitated the dismantling of California's unholy traffic during and after the Civil War. By 1870, California contained some 30,000 Indians and over 553,000 non-Indians. Ten years later, there were perhaps 20,000 Indians and over 848,000 non-Indians in California.<sup>150</sup> Thus, the importance of Indian labor to the

---

148. Charles Nordhoff, *Northern California, Oregon, and the Sandwich Islands* (New York, 1874), 166.

149. California, *Statutes of California, Extra Session of the Fifty-First Legislature 1936 Began Monday, May Twenty-Fifth, and Adjourned Tuesday, May Twenty-sixth, Nineteen Hundred Thirty-Six* (Sacramento, 1937), 1005, 1180. The governor signed this act in 1937.

150. The 1880 United States census reported 16,277 Indians and 848,417 non-Indians in California. See United States Census Office, *Statistics of the Population of the*

state's growing labor market continued to decline, apparently reducing opposition to ending the unholy traffic. Still, supply-and-demand dynamics were not decisive. In 1860, over 362,000 non-Indians lived in California and perhaps 35,000 California Indians, yet demand remained high and that year state legislators dramatically lowered barriers to acquiring involuntary Indian servants while substantially expanding *de jure* servitude terms. Californians' demand for unfree labor did not suddenly vanish, nor did all California Indians. But, beginning in 1863, state and federal officials played crucial roles in the protracted dismantling of the unholy traffic by promulgating and enforcing laws against it.

## Conclusion

California Indian servitude illuminates the histories of California, the Trans-Mississippi West, the United States, and the western hemisphere as a whole by highlighting the importance of supply, demand, and political will to the rise and fall of unfree American Indian labor systems while also suggesting the value of complex taxonomies to defining their contours. In doing so, this study suggests multiple research directions. Unfree California Indians played a more important role in the making of modern California than previously understood. Under U.S. rule they worked in fields, pastures, mines, and homes, helping to facilitate the rapid accumulation of wealth by newcomers.<sup>151</sup> Indians were the largest group of unfree laborers during the second half of California's nineteenth century. Perhaps 500 to "a few thousand" African American chattel slaves, some 4,000 Chilean debt peons, and perhaps several thousand Chinese captive prostitutes worked in California during and after the Gold Rush.<sup>152</sup> Yet Chilean debt peonage had largely been

---

*United States at the Tenth Census (June 1, 1880)*. . . (Washington, D.C., 1883), 3. According to Merriam, the 1880 census takers probably failed to count off-reservation California Indians. He estimated 20,500 California Indians in 1880 in "The Indian Population of California," *American Anthropology*, 7 (October–December, 1905), 599–600.

151. Magliari asserted that, "bound Indian laborers proved essential to California's rise as a major agricultural producer" in "Free State Slavery," 155.

152. Lapp, *Blacks in Gold Rush California*, 65; Smith, "Remaking Slavery in a Free State," 29, n2; Edward Melillo, *Strangers on Familiar Soil: Rediscovering the Chile-California Connection, 1786–2008* (New Haven, Conn., forthcoming). There is no precise estimate of how many captive Chinese prostitutes there were in California. However, Hirata wrote that, based upon censuses: "In 1870, among the 3,536 adult Chinese women in California, there were approximately 2,157 whose occupations were listed as prostitutes." However,

abolished by 1852, African American chattel slavery effectively ended in 1858, and captive Chinese prostitution began a precipitous decline in the 1870s.<sup>153</sup> Meanwhile, an estimated 20,000 California Indians labored in servitude between 1850 and 1863 alone. Unfree California Indian labor then endured into the 1870s, while California abolished Indian convict leasing only in 1937. Given the institution's scale and duration, unfree California Indian laborers made important contributions to the making of modern California. The unholy traffic helped to shape the state and the lives of tens of thousands of individuals as well as dozens of tribes. Its importance thus suggests the need for additional regional, tribal, and statewide studies of California Indian servitude, using the taxonomy and emphasis on supply, demand, and political will presented in this essay. Such studies may reveal additional information describing its demographic, economic, political, and cultural impacts on California Indian individuals, their communities, and California as a whole.<sup>154</sup>

The variety of California Indian servitude under U.S. rule is indicative of the heterogeneity of unfree American Indian labor elsewhere and thus the need for a labor taxonomy that moves beyond the old binary of free and slave to define multiple forms of legal and illegal work without the freedom to quit. The taxonomy presented here—which includes *de jure* apprenticeship, convict leasing, indenture, and minor custodianship as well as *de facto* debt peonage, chattel slavery, and disposable servitude—can help scholars to define and describe the contours of unfree Native American labor elsewhere.

---

by 1880, "Among the 3,171 adult [Chinese] women, only 759 were listed as prostitutes." Lucie Cheng Hirata, "Chinese Immigrant Women in Nineteenth-Century California," in Carol Ruth Berkin and Mary Beth Norton, eds., *Women of America: A History* (Boston, 1979), 227–228. Donaldina Cameron reportedly freed 3,000 Chinese women in San Francisco from 1895 to 1934. Mildred Crowl Martin, *Chinatown's Angry Angel: The Story of Donaldina Cameron* (Palo Alto, Calif., 1977), 266.

153. William Franklin, "The Archy Case: The California Supreme Court Refuses to Free a Slave," *Pacific Historical Review*, 32 (1963), 137–154; Melillo, *Strangers on Familiar Soil*; Hirata, "Chinese Immigrant Women in Nineteenth-Century California," 227–228. Based upon census records, historian Judy Yung reported 339 Chinese prostitutes in San Francisco in 1900, 92 in 1910, and none in 1920. The last San Francisco trial of a Chinese prostitution ring apparently occurred in 1935. Judy Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley, 1995), 71–72.

154. For excellent examples of such micro-histories, see Magliari, "Free Soil, Unfree Labor" and "Free State Slavery." Magliari is working on a book titled, *Free State Slavery: Indian Servitude in California, 1850–1867*.

Among western states, California's unholy traffic may have been exceptionally large, but it exhibited features of American Indian servitude elsewhere in the Trans-Mississippi West. Newcomers in other regions of the West—including Alaska, Arizona, Louisiana, New Mexico, Texas, and Utah—rapidly acquired wealth by dispossessing indigenous people of their land and expropriating their labor through varied systems of servitude, much as they did in California.<sup>155</sup> For example, Russians used debt, hostage-taking, and enslavement to employ Native Alaskans without the freedom to quit while unfree American Indians worked as convicts, debt peons, and slaves in what are now Arizona and New Mexico.<sup>156</sup> A complex taxonomy can thus help scholars to identify, name, and map the varieties of Native American servitude in the West.

Supply, demand, and political will can, in turn, help explain their rise and fall. Although often depicted as a lawless region, the Trans-Mississippi West was a place where both local and metropolitan lawmakers shaped labor policies. For example, as in California, the Emancipation Proclamation, Thirteenth Amendment, and “Act to Abolish and Forever Prohibit the System of Peonage in the Territory of New Mexico and Other Parts of the United States” catalyzed the slow abolition of unfree American Indian labor in the Southwest.<sup>157</sup> This finding, in turn, suggests the importance of

---

155. For Alaska, see Ilya Vinkovetsky, *Russian America: An Overseas Colony of a Continental Empire, 1804–1867* (New York, 2011), 32, 75–81. For Arizona, Henry Dobyns, *Spanish Colonial Tucson: A Demographic History* (Tucson, 1976), 144, 104–105, 136, 138–139; and Victoria Smith, *Captive Arizona, 1851–1900* (Lincoln, Nebr., 2009). For Louisiana, Stephen Webre, “The Problem of Indian Slavery in Spanish Louisiana, 1769–1803,” *The Journal of the Louisiana Historical Association*, 25 (1984), 117–135. For New Mexico, James Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill, N.C., 2002). For Texas, Juliana Barr, “A Spectrum of Indian Bondage in Spanish Texas” in Alan Gallay, ed., *Indian Slavery in Colonial America* (Lincoln, Nebr., 2009), 277–317; and Kelly Himmel, *Conquest of the Karankawas and Tonkawas, 1821–1859* (College Station, Tex., 1999), 54, 60. For Utah, Stephen Van Hoak, “And Who Shall Have the Children? The Indian Slave Trade in the Southern Great Basin, 1800–1865,” *Nevada Historical Society Quarterly*, 41 (1998), 3–25. For the Great Basin, Ned Blackhawk, *Violence Over the Land: Indians and Empires in the Early American West* (Cambridge, Mass., 2006). For the Southwest, L. R. Bailey, *Indian Slave Trade in the Southwest* (Los Angeles, 1966).

156. For Alaska, Vinkovetsky, *Russian America*, 32, 75–81. For Arizona and New Mexico, Howard Lamar, *The Far Southwest, 1846–1912: A Territorial History* (New Haven, Conn., 1966), 131; and Brooks, *Captives and Cousins*, 137.

157. For example, on May 4, 1864 New Mexico governor Henry Connelly proclaimed “traffic in captive Indians” illegal and announced plans to emancipate enslaved Indians. James R. Doolittle, *Condition of the Indian Tribes* (Washington, D.C., 1867), 333.



exploring the impact of colonial, territorial, state, and federal lawmakers on Native American labor arrangements in other regions west of the Mississippi.

California Indian servitude also illuminates aspects of national history, while posing new questions. The rapidly growing field of Native American slavery studies—including the work of scholars such as Alan Galloway, Paul Kelton, Robbie Ethridge, Sheri Shuck-Hall, Christina Snyder, and Brett Rushforth—primarily addresses American Indian slavery in the colonial periods of what are today the eastern United States while a few scholars, notably L. R. Bailey, James Brooks, and Ned Blackhawk, have produced monographs on Native American slavery in the Southwest within and beyond the colonial period.<sup>158</sup> Adding California's unholy traffic to such studies extends the field across the nation to the Pacific, helps to expand the discussion into other forms of unfree American Indian labor beyond slavery, and extends its chronology deeper into United States history (and even the twentieth century). Taken together with existing literature, California Indian servitude also helps to demonstrate the prevalence and variety of Native American bondage in the United States and its colonial antecedents.

Beyond California, a complex taxonomy can highlight these varieties. For example, before 1776 colonists along the eastern seaboard used apprenticeship, convict servitude, indenture, minor custodianship, debt peonage, and chattel slavery to bind American Indians. Records indicate Native Americans apprenticed and indentured in Connecticut, Massachusetts, New Jersey, New York, and Rhode Island. Meanwhile, officials sentenced American Indians to convict servitude in Connecticut, Massachusetts, Plymouth Colony, Rhode Island, and South Carolina even as Plymouth and Virginia institutionalized minor custodianship of American Indians.

---

158. Some works on American Indian slavery include Almon Lauber, *Indian Slavery in Colonial Times within the Present Limits of the United States* (New York, 1913); Bailey, *Indian Slave Trade in the Southwest*; Alan Galloway, *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670–1717* (New Haven, Conn., 2002); Brooks, *Captives and Cousins*; Blackhawk, *Violence Over the Land*; Paul Kelton, *Epidemics and Enslavement: Biological Catastrophe in the Native Southeast, 1492–1715* (Lincoln, Nebr., 2007); Galloway, *Indian Slavery in Colonial America*; Robbie Ethridge and Sheri Shuck-Hall, eds., *Mapping the Mississippian Shatter Zone: The Colonial Indian Slave Trade and Regional Instability in the American South* (Lincoln, Nebr., 2009); Christina Snyder, *Slavery in Indian Country: The Changing Face of Captivity in Early America* (Cambridge, Mass., 2010); Brett Rushforth, *Bonds of Alliance: Indigenous and Atlantic Slavery in New France* (Chapel Hill, N.C., 2012).

Massachusetts and Plymouth legalized Native American debt peonage, and chattel slavery bound American Indian people in Florida, Massachusetts, and colonies in between.<sup>159</sup>

California also indicates the importance of supply, demand, and political will to the rise and fall of American Indian servitude in the United States. When high demand, substantial supply, and political will in favor of unfree Native American labor converged, systems of servitude thrived. For example, American Indian slavery flourished in the Southeast until about 1717, in the Great Lakes region and in some parts of New England until the 1790s, and in the Southwest until about 1880.<sup>160</sup> As in California, its decline in each region was driven, in part, by changes in supply and demand. In general, as indigenous populations declined, newcomers provided labor substitutes. Most strikingly, Southeastern colonists increasingly substituted African American slaves for Native American slaves following South Carolina's Yamasee War (1715–1717). Still, policy makers also played key roles in abolishing American Indian slavery. Colonial and state lawmakers helped to abolish it in New England with a prolonged legislative attack.<sup>161</sup> Legislators also encouraged the decline of slavery in the Great Lakes region. In 1787 Congress passed the Northwest Ordinance, barring all forms of slavery but penal servitude in the Northwest Territory, and in 1793 Canadian legislators abolished the importation of slaves while providing for the gradual emancipation of slaves in Upper Canada.<sup>162</sup> Finally, as already noted, legislation played a key role in abolishing American Indian slavery in the Southwest. Additional case studies—using a complex taxonomy of unfree labor while examining supply, demand, and political will—may help scholars to eventually create an integrated

---

159. Lauber, *Indian Slavery in Colonial Times within the Present Limits of the United States*, 196–209, 295–302. For Plymouth, David Pulsifer, ed., *Records of the Colony of New Plymouth in New England* (Boston, 1861), 237. For Florida, Galloway, *Indian Slave Trade*, 295–296.

160. Galloway, *Indian Slave Trade*, 353; Rushforth, *Bonds of Alliance*, 370; Lauber, *Indian Slavery in Colonial Times within the Present Limits of the United States*, 108–111; Brooks, *Captives and Cousins*, 39.

161. Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America* (Cambridge, Mass., 1998), 229, 233–234.

162. “An act to prevent the further introduction of slaves, and to limit the terms of contracts for servitude within this province, July 9, 1793” in James Nickalls, comp., *The Statutes of the Province of Upper Canada; Together with Such British Statutes, Ordinances of Quebec, and Proclamations, as Relate to the Said Province* (Kingston, Ontario, 1831), 41–42.

history of such systems across the nation and to ultimately understand how they shaped both Native America and the United States.

Beyond the United States, the history of the making, contours, and unmaking of unfree indigenous labor in the Americas remains to be written.<sup>163</sup> Again and again, demand, supply, and political will converged to create varied systems of indigenous bondage that shaped many thousands of lives and entire regions. Spaniards employed American Indians—without the freedom to quit—from California to the Caribbean and from Florida to Bolivia.<sup>164</sup> French colonizers did so in geographies as diverse as Louisiana and Quebec.<sup>165</sup> Russians employed unfree indigenous laborers as far south as Baja California and as far west as Alaska's Aleutian Islands.<sup>166</sup> Assembling these and other unfree Native American labor histories—using the emphasis on supply, demand, and political will as well as a complex taxonomy—will ultimately reveal the rise, size, variety, decline, and impact of unfree indigenous laborers in the making of the modern Americas.

---

163. Russell Magnaghi produced the helpful *Indian Slavery, Labor, Evangelization, and Captivity in the Americas: An Annotated Bibliography* (Lanham, Md., 1998).

164. For California, Robert Archibald, "Indian Labor at the California Missions: Slavery or Salvation?," *Journal of San Diego History*, 24 (1978), 181. For the Caribbean, Erin Woodruff Stone, "America's First Slave Revolt: Indians and African Slaves in Española, 1500–1534," *Ethnohistory*, 60 (2013), 195–217. For Florida, Gallay, *Indian Slave Trade*, 295–296. For Bolivia, Jeffrey A. Cole, *The Potosí Mita, 1573–1700: Compulsory Indian Labor in the Andes* (Stanford, 1985).

165. For Louisiana, Webre, "Problem of Indian Slavery in Spanish Louisiana, 1769–1803," 118. For Quebec, Rushforth, *Bonds of Alliance*.

166. Ryan Tucker Jones, "Running into Wales: The History of the North Pacific from below the Waves," *The American Historical Review*, 118 (2013), Figure 5, p. 367.