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## **California and Unfree Labor: Assessing the Intent of the 1850 “An Act for the Government and Protection of Indians**

By Aaron Beitzel

*Abstract: Discussions of unfree labor systems in the United States have long been focused on history of institutionalized slavery on the East coast and plantation slavery in the American South. However, recent scholars have challenged the definitions of unfree labor systems based solely on the framework of American slavery in these areas. Forced Indian labor in the territory of Alta California between the late 18th and mid-nineteenth centuries has offered historians a major counter-example of institutionalized unfree labor within the United States. This paper focuses on explaining the social context under which the 1850 "An Act for the Government and Protection of Indians" developed. It argues that, despite California legislators' rejection of the institutionalized slavery framework then in place in the American South, they nevertheless codified and perpetuated the subjugation of Native Americans that took place initially under Spanish and Mexican administration of California. The primary motivation for Indian policies under the administration of United States citizens, particularly the 1850 Indian Act, was to maintain control over Indian lives. Ostensibly for the protection of the Indians and non-Indian settlers alike, these policies expressly perpetuated established means of extracting resources (labor, land, water, minerals, timber, etc.) from the state's indigenous population.*

## **Introduction**

Due to the relationship between the colonization of California in the eighteenth and nineteenth centuries and the decimation of the territory's indigenous population, scholars for over a century have studied the processes by which California Indians were controlled, dispossessed, and very nearly exterminated. Not surprisingly, a considerable amount of work has been done on systems of forced Indian labor existent in the United States period of California history. This research suggests that, on September 9, 1850, California became the thirty-first state in the Union under false pretenses. Though legislators argued for and obtained statehood as a "free" state—thus contributing to the intense conflict over slavery throughout the Union and influencing the 1850 Compromise—they did so in light of California legislation passed nearly four months earlier that provided for the virtual enslavement of Native peoples in the state over the next several decades. The implications of this system—whether or not labor practices established under it could be defined or have constituted formalized "slavery"—would have considerable impact on California's historical legacy. This situation raises an important question: How did California develop a forced labor system while claiming to be a free state?

The answer to this question began to be formulated on April 22, 1850 when California's first civilian governor signed into law one of the state's earliest and most infamous pieces of legislation. As applied to the state's Native Americans, the 1850 "Act for the Government and Protection of Indians" (along with subsequent amendments) contributed to the development of California's onerous and destructive system of legalized Indian servitude. The coerced labor practices it codified and supported spanned a period from the state's formation in 1850 until such practices were outlawed piecemeal, both by acts of the state legislature and the federal government, from 1863 until approximately 1890—though the Act was not fully repealed until 1937.<sup>1</sup>

The 1850 Indian Act, however, was as much an extension of labor practices developed throughout California's Spanish and

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<sup>1</sup> Kimberly Johnston-Dodds, "Early California Laws and Policies Related to California Indians," *California Research Bureau* (September 2002), 5.

Mexican periods as an invention of California legislators. It represented the desires of California's Mexican landed elite and newly formed non-Indian, United States citizenry to control Indian labor and exploit it. In essence, the act can be seen as a culmination of past practices and new methods of Indian subjugation. By highlighting the contributions of Indian policies from the Spanish and Mexican periods and analyzing the process by which California developed Indian policies under the administration of the United States, it will be shown that the 1850 Indian Act was originally intended to perpetuate previously existent controls over Indian lives and labor in the state.

### ***California's Past Labor Policies through Literature Review***

From the time that the Spanish initially began colonizing Alta California, in 1769, until forced labor was formally banned by the federal government of the United States in the years following the Civil War, coercive labor policies were a ubiquitous part of California's past. Many California scholars have thus contributed to the discussions of coerced Indian labor at various points in the region's history. While arguably this discussion begins with the formative works by historians such as Hubert Howe Bancroft and Sherburne F. Cook, in the late-nineteenth and early-twentieth centuries, this paper focuses on the works of more recent scholars of Indian history. Due to the propensity of California historians to write according to periods, it is easiest to group information on specific periods together, starting with the Spanish period.

While the 1850 Indian Act can be discussed as an invention of the California legislature, the genesis of forced labor in California had its roots in the missionization of Alta California. Spanish colonization introduced a three-institution system consisting of missions, presidios, and pueblos.<sup>2</sup> Taken together, these three institutions extracted labor from the Native Californian population throughout the Spanish and Mexican periods by various means. In 2004, Richard Steven Street published *Beasts of the Field*, a narrative history of California laborers, which discussed

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<sup>2</sup> These three institutions represented, respectively, the religious, military and civilian developments in Spanish California.

trends throughout California labor history.<sup>3</sup> He argued that Indians most often took part in laboring for the missions voluntarily, but that the system did not necessarily exclude forced labor. "Once Indians received the holy waters of baptism, they were required to remain and work for the common good. They could not leave without permission. Those who gave up their faith and fled soon learned that the padres would send soldiers to hunt them down and, if necessary, whip and jail them into submission."<sup>4</sup> Thus, by taking vows of loyalty to the missions and the Catholic faith, California Indians who took part in the mission system were bound to the missions themselves, essentially owing their labor and profits to the mission.

In *Children of Coyote*, published one year after *Beasts of the Field*, Steven W. Hackel argued conversely that, despite the fact that some may have entered voluntarily, Indians who were associated with the missions in most cases constituted a "semicaptive labor force," held in place by their own subsistence needs and the "Spanish's willingness to make them work and remain at the missions."<sup>5</sup> There were, however, major points of agreement between Street and Hackel's assessment of the mission labor systems. Both argued that Spanish soldiers and missionaries generally avoided all forms of manual labor, contributing to a racial notion that "manual labor was indeed the province of Indians."<sup>6</sup> Both also agreed that Indian laborers became the backbone of California's fledgling economy, in which they performed most of the heavy skilled and agricultural labor, often working for subsistence wages or no pay at all.<sup>7</sup>

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3 Richard S. Street, *Beasts of the Field: A Narrative History of California Farm Workers, 1769-1913* (Stanford University Press, 2004).

4 Street, *Beasts of the Field*, 25.

5 Steven W. Hackel, *Children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California, 1769-1850* (Chapel Hill: University of North Carolina Press, 2005), 281. Hackel also suggested, however, that Indians not affiliated with the missions provided as much as ten times the labor of mission Indians on the presidios and pueblos; although, he argued that this practice was, for various reasons, often left outside the "recorded economy"; see Hackel, *Children of Coyote*, 312-19.

6*ibid.*, 319.

7 Hackel also suggests that Indians not affiliated with the missions provided as much as ten times the labor of mission Indians on the presidios and pueblos, although this practice was often, for various reasons, left outside the "recorded economy"; see Hackel, 312-19.

From the outset of the Mexican Revolution in 1810, Spanish administration of California began to decline until 1821. With Mexican independence came the secularization of the California missions (removing them from the control of the church) which provided Indian laborers opportunities to become landed individuals themselves. Indians who were once part of the missions were given opportunities by the Mexican government to apply for tracts of land as mission holdings were broken up. Spanish/Mexican elites, however, seized much of the land promised to the Indian population, which contributed to the establishment of a rancho aristocracy in California.<sup>8</sup> Ranchos were civilian owned farmlands that ranged in size, though the largest Mexican land grants were several hundred-thousand hectares and were operated as feudal estates. In order to maintain control over cheap Indian labor, Hackel claimed the “*californios*,” or propertied non-Indian settlers, encouraged Indian settlement within the rancho grants to keep them readily at hand while also—as Street points out as well—providing Indians with every-day goods on credit. By binding Indians with credit, *californios* relied heavily on a system of debt peonage by which Indians became formally tied to the land by their debt obligations and were compelled to work.<sup>9</sup> With little chance of ever repaying these debts, many were bound to labor in perpetuity.

From early on, Anglo-American immigrants began to take part in the Mexican labor system; many ultimately became part of California's landed aristocracy. Prior to the Mexican-American War (1846-1848), these immigrants were largely accepted by the *californios*, and at the war's conclusion, U.S. born immigrants reciprocated this acceptance by offering *californios* United States citizenship. In the meantime, due to the profits inherent in a region with expansive agricultural land, access to cheap Indian labor, and expanding markets, settlers set consolidated authority and control over the physical lives of California's Indians. As non-Indian settlers established themselves in California between the years

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8 Street shows that, by 1846, the Mexican government in California had distributed much of California's land, and "Californios controlled virtually all of the best land along the coast, the interior valleys near the sea, and the Napa and Sacramento valleys situated farther inland"—precisely the areas of greatest agricultural development in later years; see Street, *Beasts*, 389.

9 Hackel shows that past scholars have characterized the rancho labor systems as "peonage," "seigneurialism," or "paternalism;" see Hackel, 417, note 79.

1821 and 1846, many became engrossed in the coercive labor practices established earlier. The racialized notion that Indians were useful primarily for labor established during the Spanish period was carried over and vigorously enforced on Mexican and Anglo-American ranchos alike. Many California historians argue that it was the outright involvement in, or at least the general acquiescence of, Mexican labor policies during this period that heavily influenced California's future legislators to perpetuate the practices as the territory became part of the United States.

James J. Rawls addressed this situation in *Indians of California: the Changing Image*, published in 1984.<sup>10</sup> His book provided the non-Indian immigrants perspective of Indians in California and explained their participation in California's labor economy. He suggested that Anglo-Americans immigrating to the region often provided commentary on how easily they procured Indian laborers for low wages, often paying them in material goods and not cash. Rawls made it clear that many later contributors of the California constitution—provisions of which effectively disfranchised Indians in the state—and the 1850 Indian Act were benefactors of the rancho system.

Upon conclusion of the Mexican-American War in 1848, California was afforded territorial status and placed under the administration of the United States military. During this interim period, between Mexican control and California's ascension to U.S. statehood, *californios* and American immigrants alike looked to the federal military administration to tighten controls on Indian laborers. In 1979, Albert Hurtado evaluated the policy responses from this military administration.<sup>11</sup> Hurtado and Rawls came to the same general conclusion: the Indian policy developed under California's state of martial law was heavily influenced by local landowners. Various sources show that the public favored maintaining the status quo of the Mexican system, which by that time was in many cases tipping the scales between legalized "debt peonage" and outright chattel slavery. Hurtado dismissed the impact of the military governors' acts pertaining to Indian labor as protective; both to landowners against injury by Indian raiding

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10 James J. Rawls, *Indians of California: The Changing Image* (Norman, Oklahoma: University of Oklahoma Press, 1984).

11 Albert L. Hurtado, "Controlling California's Indian Labor Force; Federal Administration of California Indian Affairs During the Mexican War," *Southern California Quarterly* 61, no. 3 (Fall 1979): 217-38.

parties, and to Indians against coercive labor tactics and indiscriminate violence. Rawls, however, suggested that the provisions of those acts were far more onerous and reflected the desires of California landowners. He showed that military governors instituted three major changes to Indian policy in this interim period.<sup>12</sup> Recognizing that the "changes" in Indian policy under this military administration were not really changes at all, Rawls argued that the policies developed during this period had exact parallels in past Spanish and Mexican labor systems and simply perpetuated those systems, to the benefit of landowning California elites.

The year 1850 witnessed two of the most important events in California Indian history. Civilian Governor Peter H. Burnett signed the 1850 Indian Act into law on April 22. Four months later, California was admitted to the Union as a "free" state, establishing in the constitution that "neither slavery, nor involuntary servitude, unless for the punishment of crimes shall ever be tolerated in this state."<sup>13</sup> Unfortunately for California Indians, the state's constitution provided little tangible protection against forced labor. Provisions of the 1850 Indian Act allowed their subjugation to such an extent that many were forced into legalized bondage, whether it was through debt peonage, vagrant and convict bonding, or illicit child adoption. Native California men, women, and children also faced human trafficking and human rights abuses for which they could seek no redress, because the act stripped their ability to defend themselves in court.

### ***Arguing Slavery in a "Free State"***

Modern arguments about the state's role in the dispossession and destruction of Native Americans arose in large part with the works of anthropologist Robert F. Heizer. In 1971, Heizer and Alan Almquist published *The Other Californians*, in which they analyzed early California Indian policy and its impacts on the

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12) They dictated that all Indians were required to be employed, and those who were not were forced into public-works projects. 2) By requiring them to get certificates of release from past employers, Indians were limited in their ability to seek new job opportunities. 3) Indians were essentially rooted to their place of employment by a "pass" system which required laborers to receive licenses from their employers to allow travel; see Rawls, *Indians of California*, 84-85.

13) Calif. Const. of 1849, art. I, S. 18.

indigenous population during the Spanish, Mexican and United States periods.<sup>14</sup> Their analysis of these policies suggested that the state was complicit in the destruction of California Indians and prompted further historical inquiry into the nature of California's unfree labor systems. Due to the recognition that California's historical legacy included forced labor practices, more recent scholars have formulated arguments that further suggest the state's complicity in the development of Indian slavery.

In 2002, California Senate President pro tempore John L. Burton commissioned public historian Kimberly Johnston-Dodds to provide a report assessing the state government's culpability in the suppression and annihilation of Native American cultures in the years after statehood. Providing documentation of California's legislative development in the state's formative years—including the state constitution, 1850 Indian Act, vagrancy laws and military actions against Indian groups—her report showed that there was strong correlation between California Indian policy and depredations upon the Indians. While her work was primarily a brief overview of the laws and their impact, it is particularly important as a sign that legislative officials had begun to realize the state's role in this system.<sup>15</sup>

Recognizing what he saw as a deficiency in California Indian labor discussions, in 2004 Michael Magliari entered the debate with an overview of how the 1850 Indian Act was utilized by an individual employer, Cave Johnson Coutts.<sup>16</sup> In doing so, he exposed some of the more sinister realities of the act. He argued that the California constitution contained two loopholes that the act utilized to circumvent the state's ban on unfree labor. Because the constitution contained provisions which made convict labor and voluntary servitude legal under certain circumstances, the government condoned the practice. California legislators eagerly implemented the act in such a way as to perpetuate rancho and early American labor systems under these terms. Magliari

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14 Robert F. Heizer and Alan J. Almquist, *The Other Californians: Prejudice and Discrimination Under Spain, Mexico and the United States to 1920* (Berkeley: University of California Press, 1971).

15 Kimberly Johnston-Dodds, *Early California Laws and Policies Related to California Indians*, special report prepared at the request of Senator John L. Burton, September 2002.

16 Michael Magliari, "Free Soil, Unfree Labor: Cave Johnson Coutts and the Binding of Indian Workers in California, 1850-1867," *Pacific Historical Review* 73, no. 3 (2004): 349-89.

highlighted how Coutts, a former slave-owning southerner and notorious abuser of Indian labor, became part of the government's management of Indian affairs through various political appointments. In these positions—one of which was as a federal Indian sub-agent—Coutts was empowered to authorize labor contracts and bind Indian children to himself and other non-Indian Californians under provisions of the law. The implications of this setup were immense; those who oversaw the implementation of the system were also involved in deriving benefits from it. While Magliari concluded that formal indenture and convict labor never comprised Coutts' primary method of coercing Indian laborers, he did extract labor from them through a system of contracted debt obligations and maintained his lordship over them through "legally sanctioned violence."<sup>17</sup> With the backing of state legislation and non-Indian allies, Coutts was able to control the physical being of the Indians in his employ with impunity, even against federal officials.

Another trend in California historiography has been scholars' attempts to frame the state's unfree Indian labor systems in much broader contexts, moving discussions of California Indian abuses into larger areas of debate. Ph.D. dissertations by Stacey Leigh Smith and Benjamin Logan Madley, and an essay by Michael Magliari represent this trend. By branching out, they hope to increase research and debate into topics related to California's early Indian policies.

In "California Bound," Smith tried to facilitate discussion of slavery in the American West within the broader context of slavery throughout the United States.<sup>18</sup> Although California had a major impact on slavery discussions in 1849-1850, she pointed out that discussion on how California was affected by or embroiled in slavery and emancipation in the years after are lacking. She argued that this situation is a development by researchers who tend to frame slavery debates in terms of North versus South and black versus white. In opposition to the idea that California was distanced spatially or racially from the issue, Smith argued that the state's multi-ethnic diversity ensured that it in fact remained involved in broad discussions of slavery, race, and gender during

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<sup>17</sup> Ibid., 373.

<sup>18</sup> Stacey L. Smith, "California Bound: Unfree Labor, Race and the Reconstruction of the Far West, 1848-1870" (PhD diss., University of Wisconsin, 2008).

the antebellum period. Within this system, Smith compares the methods utilized by California landowners to bind Indian and African-American children under various legislative acts. She concluded that, while purporting to be a "free" state, California institutionalized labor systems that were anything but free for many non-white residents. Indians and African-Americans were lumped together as undesirable yet still useful classes that were systematically subjugated. Overall, she suggested that while Californian legislators created distinctions in law based on racial and gendered features, they did so as part of an historical past that was highly stratified into racial groups. Thus, it is not surprising that when non-Indian landowners in California called for increasingly harsher modes of labor subjugation, legislators were quick to comply.

Benjamin Logan Madley framed his assessment of the 1850 Indian Act in the broader context of California Indian genocide.<sup>19</sup> In his dissertation, "American Genocide," Madley argued that the destruction of California Indians after the institution of United States administration met all legal categorizations of genocide as defined in the 1948 United Nations Genocide Convention. He argued that the Act was not only an intentional method to subjugate Indian labor, but also a means to eliminate Indian defenses against predation. A provision of the Act that stripped Indians of the right to testify against whites in court left the Indians generally open to predatory practices (i.e. assault, rape, murder and enslavement) and often left them unable to seek redress for such abuses. Madley emphasized this fact by showing that few whites were ever convicted of even the most heinous crimes inflicted upon Indians in the state. By creating a legal environment that facilitated these practices, according to Madley, the federal and state governments played an enormous role in the perpetration of these atrocities.

In 2012, Magliari once again entered the debate on Indian forced labor and built upon concepts of Indian slavery that Smith had mentioned in 2008. Magliari's study, "Free State Slavery," provided additional evidence of California's unfree labor systems in the wake of the 1850 Act in a way to, as he iterated, "eventually compel scholars to reframe the story of American slavery to include Native Americans, the West, and the myriad of species of

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<sup>19</sup> Benjamin L. Madley, "American Genocide: The California Indian Catastrophe, 1846-1873" (PhD diss., Yale University, 2009).

labor that occupied the long-neglected space between free labor and chattel bondage."<sup>20</sup> His study focuses on Northern California's Colusa County's involvement in the overall context of Indian forced labor, which he argued reveals several things about California's forced labor system.<sup>21</sup> He discussed Colusa County paying close attention to these concepts and highlighted how each individual point was a reality of the system. Magliari's work thus moves scholarship and debate on Indian labor into the future by arguing that it belongs in a broader context, while offering detailed analysis of how the state of California's early labor systems affected the people and their communities.

Although there are disagreements about aspects of Indian labor policies throughout California historiography, most past contributors concede that Indian labor became the basic and primary building block of economic expansion in Alta California. Because of its importance, controlling Indian labor became vitally important to those colonizing the region. This necessity was quickly reflected in the policies put forth by the first military governors of California, shortly after establishing influence in the area.

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20 Michael Magliari, "Free State Slavery: Bound Indian Labor and Slave Trafficking in California's Sacramento Valley, 1850-1864," *Pacific Historical Review* 81, no. 2 (2012): 159.

21 That "unfree Indian workers never comprised a majority of the rural work force in Gold Rush California;" that "...most unfree Indian labor involved Native women and especially children bound by employers responding to the demographic shortfalls of white women and children in frontier Gold Rush society;" that "most, if not all, of California's bound Indian workers labored under conditions that meet the definition of slavery formulated by modern antislavery activists," including being "recruited into labor by force or fraud, held against their will by the constant threat and frequent application of violence, and provided with no compensation beyond mere subsistence" while financially benefitting their employer; and lastly, "bound Indians provided an essential transitional labor force that made possible California agriculture's phenomenal growth between 1850 and 1870" and was not stopped until demographic shifts facilitated their replacement by other laboring groups. Magliari, "Free State Slavery," 160-161.

## ***The Establishment of Indian Labor Systems under U.S. Policy***

California did not officially fall under direct United States authority until July 4, 1848, with the signing of the Treaty of Guadalupe-Hidalgo.<sup>22</sup> However, United States military influence began in 1846; as evidenced by the August 17<sup>th</sup> decree by Commodore Robert F. Stockton in Los Angeles. Having just taken Monterey California and establishing it as the command center for U.S. military operations, Stockton declared, "the Territory of California now belongs to the United States, and will be governed as soon as [time] permits" by the same institutions then established in other U.S. territories. He provided that, at least for the interim period, the civilian population of the region would elect civil officers expressly "to administer the laws according to the former usages of the Territory."<sup>23</sup> In one fell swoop, Stockton instituted martial law over California, but also extended the territory's management to the discretion of its relatively small non-Indian population.

The short period of time that elapsed between Stockton's decree and the first declaration of Indian labor policy highlights its importance. On September 5, 1846—the same day that *The Californian* published Stockton's declaration—the governing authority of Northern California, Captain John B. Montgomery, issued a proclamation envisioned to end forced Indian labor practices throughout the region.<sup>24</sup> In his release, Montgomery declared that Indians within the territory "must not be regarded as slaves." He also acknowledged the importance of Indian labor, deeming it "necessary that the Indians within the settlement shall have employment," though with the added freedom to choose "their own master and employers."<sup>25</sup> What made this proclamation extremely beneficial to employers was that it established them as the executors of Indian contract labor, while also criminalizing—with the threat of "arrest and punishment by labor on the Public

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22 The Treaty of Cahuenga unofficially ended hostilities within Alta California on January 17, 1847. However, this was still months after the first proposed Indian policies.

23 "To the People of California," *The Californian*, September 5, 1846.

24 "Proclamation," *The Californian*, Nov. 7, 1846; for the exact date Montgomery issued the proclamation, see: Madley, "American Genocide," 167.

25 *Ibid.* Emphasis added.

Works"—what amounted to vagrancy.<sup>26</sup> By this order, all Indians were "required to obtain service," and the full powers of enforcement were given to all U.S. authorities, military and civil, within the territory.<sup>27</sup> It is possible that Montgomery meant for the proclamation to be a step toward emancipating Native Californians believed to be held in bondage at that point. However, what he succeeded in doing was to become the first U.S. official in California to codify and perpetuate the system of contract and convict labor that was already a historical reality of California's past.

Almost a year to the day after Montgomery's proclamation, military Secretary of State Henry W. Halleck began circulating a proposal entitled "Indian Agents and others," which added to proscriptive Indian labor policies. He proposed an Indian passbook system by which all employers of Indians were required to "give every such Indian [employed] a certificate to that effect." The circular also provided that "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, and if, on being brought before a civil Magistrate, he fail to give a satisfactory account of himself, he will be subjected to trial and punishment." Any other Indian wishing to travel through the settlements was required to obtain these permits from the local Indian agents.<sup>28</sup> By putting additional control over Indian movement in the hands of employers, Halleck severely reduced the already limited rights of movement afforded to them a year earlier by Montgomery. Without passes issued by their employers, Indians were denied the ability to seek other employment opportunities, even if it was still considered a legal right. Upon implementation, Halleck's proposal further bound Indian laborers to their employers and the lands they worked.

Despite the passage of these restrictive policies, it is evident that California settlers had opposing notions of how to interact with their Indian neighbors. Calls from California's non-Indian population for the implementation of even more restrictive Indian labor regulations became common. However, due to the

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26 Indians were "not to be permitted to wander about the country in idle and dissolute manner." Ibid.

27 Ibid.

28 H.W. Halleck, "Circular: To Indian Agents and others," *The California Star*, Sept. 18, 1847.

oppressiveness of the labor situation developing in the territory, some settlers began to speak out about the virtual enslavement of the Indians. Between December 11, 1847 and March 11, 1848 an interesting dialogue between contributors to *The California Star* highlighted the dichotomy developing among settlers over Indian policy. Reminiscing labor controls of the Spanish and Mexican governments in years past, some Californians thought that the Indian population should be completely bound by law to their employers. Others believed that it was within the grasp of the state's new administration to finally free the California Indians from draconian policies.

An open letter to *The California Star*, on December 11, 1847, began what would become an ongoing debate between some of the papers' contributors over Indian policy. An anonymous writer demanded from the current military government "some [stable] and reliable laws enacted, and vigorously enforced and permanently adhered to, for the better governing of the Indian population [of California]—of domesticated or tame Indians."<sup>29</sup> From the opening sentence, it can be inferred that the author was displeased with established Indian policies, and that he had no difficulty relating Indians, more or less, to animals. He went on to provide example of the "detriments" of the system that was in place. A valley farmer showed the author's group "how ineffectual were the endeavors of himself and neighbors, to retain [their] Indian laborers, even by the most conciliatory treatment, since it became current that Government did not protect their master's from theft and desertion, and afford no obstacle to a dissolute mode of life, with apparent indulgence of Indian indolences [sic]."<sup>30</sup> Though applauding policies recently passed to ban the sale of liquor to Indians, the author concluded that even harsher punishments should be implemented to compel Indians to labor: "The vagrants should be schooled to labor—the criminal offenders to punishment." The author concluded that "the multitude would then be provided for."<sup>31</sup> What this passage essentially envisioned for the Indians of California was outright enslavement for the betterment of California settlers.

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29 "We should like to hear of something being done..." *The California Star*, December 11, 1847.

30 Ibid. Emphasis in original.

31 Ibid.

However, proponents of forced Indian labor were quite careful to refrain from requesting outright slavery. As if to take the sting out of such an unacceptable proposition, another California Star contributor, "Pacific," commented on the matter of Indians throughout the territory a month later. Pacific cordially acknowledged that some would disagree with his ideas on Indian character and policy, but in his opinion, all non-Indians knew how mentally and morally inferior the Indian race was to their own, and the fact that Indians "were *aps de facto* [sic], slaves, and ruled and treated accordingly," under Mexican rule, meant there should be no moral squabbling with the institution of a less severe system of "apprenticing" Indians.<sup>32</sup> However, Pacific's strategy fell short of suggesting any real break from outright slavery. He simply substituted the word "apprentice" for slave; all other conditions remained the same. He suggested providing Indian employers with absolute discretionary power over their employees. A failure to do so, Pacific concluded, would necessitate both the expulsion of Indians from the settlements and a "continual war" to "be waged, for depredations committed, till all are exterminated."

Pacific's passage brought up several key issues that would re-emerge in the development of Indian policies in 1850 and beyond. First he suggested the idea of "apprenticing" Indians for the procurement of their labor. Apprenticing, as Pacific saw it, was a way to contractually bind Indians to their employers; making those employers essentially owners, but avoiding such harsh language. Secondly, Pacific propagated the notion that Indian and white societies were mutually exclusive. In fact, he argued that due to the "superiority" of the white race, Indians not properly subjugated and employed by white society would eventually be exterminated. This dichotomous concept of Indian survival—either to provide useful service or be rendered extinct—would be drawn upon to formulate both United States federal and California state policy for decades.

A retort to Pacific's passage was offered on January 29, 1848, penned by a contributor who styled himself "Humanitas." The author took a contrary position to Pacific's, arguing conversely that the enslavement of Indians under all systems prior—including the Spanish, or "Castillian" mission system—were ultimately failures. The Castillian system was eventually

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32 "Pacific," "Sir," *The California Star*, January 15, 1848. Emphasis in original.

abandoned, he continued, after those in charge found "they could not succeed in detaining any other than a few old women or children for any length of time."<sup>33</sup> By referring to the failure of past systems of Indian servitude, Humanitas attempted to reason with proponents of forced Indian labor, arguing that what had failed in the past was likely to fail again. Deflecting Pacific's argument that California Indians were of a lower order in society, even of Indians, he insisted that all Indians "are by nature heroes and orators, as history proves..." He dismissed the argument outright, stating that one Indian could not be considered a lower order of being to another in the same sense that, in society, farmers would not be considered of lesser quality and importance as Parishioners. Both retained their redeeming qualities and were thus incomparable.<sup>34</sup>

Humanitas represented the fact that not all residents of California during this period supported the outright subjugation or destruction of the Indian population. He suggested a much more democratic approach to governing the territory's Indians, intimating that, "if we want to ameliorate the condition of the Indian population of this territory, I say let it lie in honorable fashion as becomes Americans." His powerful closing statement conveyed a belief that the government should implement softer-handed Indian policies, taking into account the Indians' traditional rights and privileges in California:

The policy of our government towards them is leniency, the basis of which is the rights of life, liberty, and the pursuit of happiness, remembering they are the children of nature, the owners and occupants of the soil we inherit and if we want their labor, let it be conditional that they be permitted to change employers at their discretion.<sup>35</sup>

Humanitas was obviously sympathetic toward the Indians in California who were being forced into labor obligations by the ruling principles of Mexican and U.S. Indian policies.

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33 "Humanitas," "[For the California Star.] Mr. Editor," *The California Star*, January 29, 1848.

34 Ibid.

35 Ibid.

On February 10<sup>th</sup> and 15<sup>th</sup>, Pacific fired venomous criticisms back at Humanitas.<sup>36</sup> In two separate articles, he severely rebuked the "philanthropic" writer for his "naive" ways. The only course for dealing with Indians, Pacific asserted, was to be firm. In response to Humanitas' call for leniency and even-handedness, he suggested only to "treat them [Indians] justly but according to their capacity and condition, and if they be guilty of any gross misdemeanors, the more severely you punish them the better they respect and like you."<sup>37</sup> One may draw the inference that Pacific was a Southerner from his vigorous support of Indian subjugation for labor based on racial principles. He was at the very least a staunch racist and supporter of slave institutions. However, his subsequent comments on Humanitas' character likely solidify these assumptions. Comparing his own ideas for Indian policy against those of Humanitas, Pacific concluded that "Americans, and particularly those from that metaphysically mystified, and mock philanthropic portion of the Union, (where I take it "Humanitas" belongs) are, with few exceptions, entirely unfit to have any dealing with, or rule over savages."<sup>38</sup> By attacking Humanitas' ideals, Pacific brought into this debate a more regionalized argument, making it seem more like period discussions over slavery in the North and South than the treatment and implementation of Indian labor in California.

Throughout the rest of his article, Pacific suggested many ideas that were discussed over the following two-to-three decades. He sided only with those who favored either enslaving or exterminating California Indians and offered no alternatives between the two extremes. Offering a rebuttal to Humanitas' call to elevate the Indians, he claimed that any amount of time spent attempting to better the situation of the Indians was "labor lost," doubly so considering he believed whole heartedly in their eventual extinction. In these reviews, Pacific became the epitome of the Anglo-American settler who lacked any compassion for Native Americans.<sup>39</sup>

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36 Dates shown are original dates published, as seen reprinted in: "Pacific," "[Cal. Star's Sonoma Correspondence] Mr. Editor," *The California Star*, February 26, 1848, 2 col. 3; "Pacific," "[Cal. Star's Sonoma Correspondence] Mr. Editor," *The California Star*, March 11, 1848.

37 *California Star*, Feb 26, 1848. Emphasis added.

38 Ibid.

39 Ibid. Pacific continues his assault on Humanitas in one further article in the March eleventh issue of *The California Star*. However, he does not introduce

The dialogue between Pacific and Humanitas shows that there were different opinions among Californians regarding how best to deal with Indians in the region prior to statehood and the passage of the 1850 Indian Act. However, the way in which future Indian policies were implemented suggests that the majority of political leaders leaned toward Pacific's arguments. Within months of the exchange, the population influx from the California Gold Rush began to strain relations between Indians and Anglo-Americans. The Gold Rush acted as the cultural equivalent of a nuclear bomb, exacerbating hostilities between fast rising numbers of non-Indian settlers and Native Californians. Though the territory was vast, the rising immigrant population, seeking fortune in the mines or through providing for the miners, sought out the most fruitful lands for establishing their claims: often dispossessing the native inhabitants. Increasingly violent conflict between settlers and Indians led the military governors of the region to focus more energy on the "protection" of settler groups, and less so on the development of Indian policies. In order to facilitate the development of California's civil government, on June 3, 1849, Brevet Brigadier General Bennett C. Riley, provisional governor of the territory, announced his intentions to allow Californians to hold a civil constitutional convention, which convened three months later, in September, 1849.<sup>40</sup>

Labor policy did not factor heavily in the discussions at the 1849 California constitutional convention. However, considerations of Indian control and manipulation—outgrowths of the restrictive labor policies—did play a major role in the ultimate disfranchisement of California's Indian population. Up to this point, Indian policies had granted non-Indians considerable authority and power over Indian laborers. That level of control was a primary concern of many delegates when they considered allowing Indians to vote.

On the first day of debate over Indian state suffrage rights, September 12<sup>th</sup>, several delegates expressed concerns about non-Indians controlling Indian voters. These concerns were generally articulated to argue against enfranchising Native Californians. The

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much in the way of new ideas. He simply recapitulates ideas previously established; see *California Star*, Mar. 11, 1848.

<sup>40</sup> John R. Browne, *Report on the Debates in the Convention of California on the Formation of the State Constitution in September and October 1849* (Washington DC: John T. Towers, 1850), 3.

first delegate to do so was Lansford W. Hastings. Concerned that allowing all Indians to vote would corrupt the system, Hastings iterated his belief that among non-Indian citizens of the territory "there are gentlemen who are very popular among the wild Indians, who could march hundreds of them to the poles [sic]."<sup>41</sup> While Hastings' impression was that men of considerable influence with Indians could entice them to vote in their favor, his fellow delegate, William Gwin, was concerned that the Indians could be directly compelled. Gwin explained it had been intimated to him that, speaking of the many tribes in California, "a few white persons control them; and that they would vote just as they were directed."<sup>42</sup> To him, this was obviously a situation to avoid at all costs. However, despite his fear that unscrupulous non-Indians would manipulate Indian voters, Gwin was in support of allowing Indians who were already competent voters under past policies to retain that right.

Finally, a Mr. Carver expressed his concern that Indian voters could be easily manipulated.<sup>43</sup> In opposition to a provisional clause that would have allowed taxpaying Indians the right to vote, Carver said he "believed the privilege would be greatly abused. Many men who wished to carry an election, would pay the taxes of the rancho," owned by Indians, "and induce the Indians to vote as he directed...by giving him [the taxpaying Indian] the right to vote, he would in nine cases out of ten, be placed in the power of crafty and designing men."<sup>44</sup> As it stood before Carver offered his criticisms, the voting provision would have to extended to all white male citizens and Mexicans that elected to become U.S. citizens, twenty-one years of age or older, with Indians "not taxed" and blacks excepted. This provision would have provided voting rights for taxpaying Indians. Carver's argument must have had a considerable influence on the other delegates, because a vote was immediately recorded that struck the words "not taxed" from the proposed constitution; effectively removing Indian voting exceptions.<sup>45</sup>

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41 Browne, *Report on the Debates*, 64.

42 Ibid., 65.

43 Mr. Carver's first name is unknown to the author of this paper. See Browne, *Report on the Debates*, 478; H.H. Bancroft, "The Works of Hubert Howe Bancroft" 23, *History of California: 1848-1859* 6, 288.

44 Browne, *Report on the Debates*, 70.

45 Ibid., 70.

Two weeks later, on September 29<sup>th</sup>, the convention once again touched upon the issue of Indian suffrage. Henry W. Halleck tried to reintroduce the term "not taxed" in a proposed amendment, but this time J. D. Hoppe offered objections to allowing Indian taxpayers voting rights. He argued that the Indians who would end up voting were those who were "along the Pacific coast, populating the ranchos. There was not a rancho where you would not find fifty or a hundred buck Indians, and the owner could run these freemen up to the polls and carry any measure he might desire."<sup>46</sup> Halleck offered a rebuttal to this argument, insisting that only taxpaying Indians would be allowed the vote if the proposed amendment were approved. Hoppe, however, offered another vague indication that he opposed Indian suffrage simply because it could be manipulated: "there were ranchos in certain districts where the California proprietors could control at least two hundred votes in favor of any particular candidate; and these votes could be purchased for a few dollars, for the Indians knew no better."<sup>47</sup> Never offering a straight objection to the vote of taxpaying Indians, Hoppe was arguing out of context. But, he continued to play on the fear of manipulated votes to reinforce his opposition to enfranchising Indians of any class or character. Winfield S. Sherwood also opposed Halleck's amendment, because he thought that "under such a state of things, his friend Captain Sutter, if so disposed, if he desired to become a politician, and wished office, could, by simply granting a small portion of land to each Indian, control a vote of ten thousand."<sup>48</sup> While this voting number is absurd, it nevertheless represented the same idea that unscrupulous whites could maneuver elections in any way they saw fit by controlling Indian voters.

Reviewed collectively these arguments may have represented a common concern for the manipulation of Indian voters for the principle benefit of non-Indians, but these concerns also signified a collective perception of California's Indians as a subjugated people. None of the delegates seemed to reason that the Indians might have voted as a block in their own self-interests, attempting to protect themselves from white depredations. Or, perhaps, they realized this potential and sought to ensure it could not happen. Arguing in a fashion to suggest they were mitigating

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46 Ibid., 306.

47 Ibid.

48 Ibid.

Indians coercion, and thus protecting elections, these delegates fought to hold back the most valuable right Indians could have gained at that time.

Voter manipulation was also not the most discussed issue linked to Indian suffrage during the constitutional convention. However, the fact that opponents of Indian enfranchisement utilized this fear as a tool to bolster their arguments suggests two major points. First, if delegates did not see Indian voter control as an actual possibility, it would have been an easily debunked argument. The fact that delegates ultimately decided to remove all Indian voting rights proves that the majority saw this situation as a feasible threat. Second, it shows that delegates were concerned with maintaining the status quo by not allowing Indian input on Indian policy. Rather than allow Indians the right to vote, and possibly risk some manipulation of that vote, many delegates simply supported disfranchising them. This fear tactic contributed, at least in part, to the overall denial of Indian suffrage, disallowing any future state Indian policy contributions by Indians themselves.<sup>49</sup>

The convention, however, was contentious throughout the debates on Indian suffrage. Several delegates offered arguments in favor of enfranchising the native population based on similar sentiments expressed by Humanitas in 1848. Among the pro-enfranchisement delegates, several were younger California representatives, including Edward Gilbert (26), Lewis Dent (27), and Henry A. Tefft (26). On September 12<sup>th</sup>, while discussing the exclusionary language of the voting clause, Lewis Dent offered an argument against Indian disfranchisement. Speaking of Indians, Dent argued:

They were the original proprietors of the soil. From them we derived it, and from them we derived many of the blessings which we now enjoy. They have already been deprived of their original independence. Why should we pursue them, and drag them down to the level of slaves? It appeared to [Dent] that the

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49 Both times the convention brought forward Indian suffrage for debate it delegates subsequently voted it down, though very narrowly. For vote tallies, see Browne, *Report of the Debates*, 73, 307. In its final form, the suffrage clause of the 1849 Constitution included a provision for, on an individual basis, the enfranchisement of Indians. For the debates and passage of this provision, see Browne, *Report of the Debates*, 323, 341.

Indians should enjoy the right of suffrage, and that they should not be classed with Africans.<sup>50</sup>

Because he associated the California Indians with the bountifulness of the territory, Dent saw them as the racial superiors of Africans. At the very least, he saw providing Indian voting rights as an opportunity to prevent them from being racially categorized with Africans. When the convention revisited Indian suffrage arguments two weeks later, a Mr. Noriega expressed similar sentiments. He suggested that the present condition of Indians was in no way their own fault, but was due to years of oppression:

If they were not cultivated and highly civilized, it was because they had been ground down and made slaves of. They were intelligent and capable of receiving instructions, and it was the duty of the citizens to endeavor to elevate them and better their condition in every way, instead of seeking to sink them still lower.<sup>51</sup>

What Dent and Noriega's arguments show is that a number of the delegates believed in the idea of "elevating," "civilizing," or at least maintaining, Indians by providing political agency; though few believed in extending the vote to all Indians. Unfortunately, these arguments did not hold a consensus in the constitutional convention.

On October 13, 1849, the constitutional delegates met to sign and adopt the "Address to the People of California," which effectively instituted California's civil government. From that point forward, until Congress granted California statehood on September 9, 1850, it was the civil government of the territory's duty to re-affirm or re-establish governmental policies thus far put into effect in the region.<sup>52</sup> California legislators were given the chance to accept or reject past Indian policies. In April, 1850, the newly founded legislature settled on "An Act for the Government and Protection of Indians."

Though the 1850 Act passed only months after the California constitutional convention adjourned, it was not the first

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50 Ibid., 70.

51 Mr. Noriega is not identified in the delegate rosters in either Browne, nor Bancroft's accounts of the convention. It is apparent that he speaks through an interpreter, but it is unclear to the author of this paper whether Noriega was a delegate or an observer; Browne, Report of the Debates, 305.

52 Ibid., 474.

attempt at Indian policy legislation. On Saturday, March 16, 1850, Senator Chamberlin—on behalf of Senator John Bidwell, who was ill—introduced Senate Bill No. 54, "An act relative to the protection, punishment and government of Indians."<sup>53</sup> General similarities between the S.B. 54 and the Indian Act suggests that the former, though never enacted, at least influenced the language Assemblyman Elam Brown drew on to formulate the latter.<sup>54</sup> However, Bidwell's bill afforded Indians in the region some general rights that Brown's removed. The fact that Senator Bidwell's bill was indefinitely suspended, while Assemblyman Brown's was discussed and passed through both legislative bodies and signed into law in just nine days, shows that legislators considered provisions of Bidwell's bill unacceptable.

Bidwell's bill marked a small step away from the established Indian policies of California up to that time. While the 1849 California Constitution had disfranchised the majority of the state's Indians, Bidwell's bill was designed to give Indians a modicum of political agency in the management of Indian affairs. It established "Justices of the Peace for Indians," who were to be elected in each county "by the qualified electors of county officers, and the male Indians of the district over the age of Eighteen years and native of California."<sup>55</sup> Bidwell did not specify if an Indian could fill this elected position, but the exclusion of a specified restriction suggests that he may have intended to allow it. Justices of the Peace for Indians would have been given considerable authority over all Indian issues, including the power to: form labor contracts between Indians and whites; judge cases arising between Indians and whites; promulgate and enforce laws among Indians of their region; and arrange the adoption of Indian children by non-Indian adults. As elected agents of and by the Indians, Justices would have had greater incentive to maintain a fair and conciliatory approach to Indian governance.

S.B. 54 would have also provided extended protections for Indian land and land usage rights. Sections five through seven

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<sup>53</sup>*Journal of the Senate of the State of California at the First Session of the Legislature, 1849-1850*, 224.

<sup>54</sup> On March 30, 1850, Bidwell's proposed bill "was taken up, read for the second time, and, on motion of Mr. Crosby, was indefinitely postponed." *Journal of the Senate*, 258.

<sup>55</sup> John Bidwell, "An act relative to the protection, punishment and government of Indians," Original Senate Bill 54, as proposed, 1850, 2, Sec 1.

dealt with the establishment of these protections, stating that "proprietors and persons in possession of lands on which indians [sic] are residing" were in no way allowed to remove or molest them. Resident Indians were to be provided by the land proprietors with their own lands, including their village sites, for cultivation and the maintenance of their families. The proposal would have given Justices of the Peace for Indians authority over the establishment of these lands.<sup>56</sup> Such contracts would have undoubtedly established legal land holdings, although, due to the Constitution, even land-holding Indians would not have gained the right to vote in state elections. Thus an examination of these sections yields the conclusion that Bidwell was a proponent for the maintenance of Indian societies within the state, at a time when many argued for the enslavement, expulsion, or outright extermination of Indians.

Bidwell's bill would have also provided a system for Indian child adoption. An unfortunate reality is that the adoption provision of the Indian Act would become one of the more destructive aspects of the final wording of the Act. Bidwell dedicated four sections to the establishment of the adoption process. Anyone wishing "to keep and raise" an Indian child would be required to "go before the Justice of the Peace for Indians of the District with such parents or relatives," and obtain a certificate "authorizing him or her to have the care, custody, control and earning of such minor, until he or she shall attain the age of majority." If the Justice was "satisfied that no compulsory means have been used to obtain the child," children could be adopted by anyone that wished to do so, which authorized "him or her to have the care, custody, control and earnings of such minor, until he or she shall attain the age of majority."<sup>57</sup>

Most importantly, Bidwell's proposal would have stripped Indians of at least some rights of legal protection in court. However, section 13 stated, "complaints may be made to a Justice of the Peace for Indians, either by whites or Indians; but in no case shall a white person be convicted of an offence upon the testimony of Indians only."<sup>58</sup> As compared to the final legislation, this provisional offering of the right to testify in court would have been

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<sup>56</sup> Bidwell, Senate Bill 54, 4-7, Sec 5-7.

<sup>57</sup> Ibid., 7-9, Sec 8-12. The age of majority, as defined by Section 9 of S.B. 54, was 18 years for males and 15 years for females.

<sup>58</sup> Ibid., 9-10, Sec 13. Emphasis added.

important in at least allowing Indian testimony to be heard and considered, perhaps mitigating some depredations against Indians. As it turned out, the California Senate was unwilling to pass Bidwell's proposal with such provisions.

Contrary to Bidwell's proposal, Elam Brown's "An Act for the Government and Protection of Indians" proposal was devoid of nearly all conciliatory provisions for Native Californians. Of primary importance, he stripped Indian voting rights from the bill's language. Once enacted, the Act subjugated Indians to the authority of county Justices of the Peace—elected by the non-Indian citizenry—"in all cases of complaints by, for, or against Indians."<sup>59</sup> Additionally, the Act disallowed the conviction of whites "of any offence upon the testimony of an Indian, or Indians."<sup>60</sup> Representing a tightened restriction compared to Bidwell's proposal, by these provisions the Act effectively eliminated all legal protection of Indians in California courts, and subjected them to overlordship by non-Indian elected Justices.<sup>61</sup>

On the issue of Indian land rights, the Brown bill also granted non-Indian land proprietors and county Justices considerable discretionary powers over the Indians' land. The Act left the definition of "sufficient" lands for the maintenance of the Indians to the discretion of the Justices. While stipulating that Indians were to retain rights to their traditional village sites and had the right to bring complaints against landowners for depredations caused by such land policies, the stipulation against white convictions upon Indian testimony disallowed them from pursuing redress.<sup>62</sup> Section 10 further limited traditional Indian subsistence patterns by also criminalizing the processes of burning prairie lands.<sup>63</sup>

As stated earlier, one of the most onerous portions of the Act was the implementation of its child adoption process. The Indian Act, unlike S.B 54, allowed Indian adoption by non-Indians upon the consent of "parents or friends of the child." The substitution of consent by "friends" over "relatives" introduced an

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59"An Act for the Government and Protection of Indians," California Statutes, 1850, Chapter 133, 408, Sec 1.

60 Ibid., 409, Sec 6.

61 As Magliari points out, these Justices were sometimes the benefactors of Indian forced labor policy under the 1850 Indian Act; see Magliari, "Free Soil."

62 Chapter 133, 408, Sec 2.

63 Ibid., 409, Sec 10.

extremely vague term that allowed virtually any person to bind Indian children to themselves or others. Also, and echoing Bidwell's proposal, those retaining an Indian child were given the rights to "have the care, custody, control and earnings of such minor, until he or she obtain the age of majority." The age of majority established for males was 18 years of age, and 15 for females.<sup>64</sup> By providing for Indian child adoption with such lax language, the Act increased the ease of procuring children, which would effectively exacerbated kidnapping and slave raiding throughout the state in the decades between 1850 and approximately 1870.

Additionally, Brown's bill capitalized on the state's acceptance of forced convict labor by establishing a convict auction system. Bidwell's proposal would have provided a less overt system of convict labor, allowing any white citizens to procure Indians for work by providing bail for incarcerated Indians, "and the bail when such permission is given may compel the Indian [sic] to work for him until the day set for his appearance before the Justice."<sup>65</sup> Brown's bill also included this provision, but took it a step further. In Section 20, the Act provided that any able-bodied Indian considered a "vagrant...shall be liable to be arrested on the complaint of any resident citizen of the county," and upon conviction hired out "within twenty-four hours to the best bidder."<sup>66</sup> The vague wording of this provision, especially the definition of what constituted "vagrancy," meant that Indians were easily brought into the labor market in this fashion because of the removal of their testimony rights.

Brown's bill was signed into law on April 22, 1850, thus signifying California's civil government's embrace of the region's past Indian policies. That Bidwell's proposal, so similar in language and provisions to the final Act, did not pass shows that the state legislators saw it lacking in one primary component: control. The 1850 Indian Act instituted rigorous controls over Native Californians' land rights, rights to establish their own contracts, practice their traditions, and rights to their freedom.

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64 Chapter 133, 408, Sec 3-4.

65 Bidwell, Senate Bill 54, 15-16, Sec 22.

66 Chapter 133, 410, Sec 20.

## **Conclusion**

The development of California's Indian labor systems in the years between United States control and the passage of the 1850 Indian Act reflected, to a large degree, similar policies established in the region in earlier periods. Pressure from settlers desiring to maintain cheap and ready access to Indian labor led the region's U.S. provisional military governors to institute policies that perpetuated vagrancy and convict labor and bound Indian workers to their employers. Despite possible intentions to abolish coercive labor practices, these early proclamations severely limited Indian mobility and legal rights. As explained earlier, however, even these onerous policies did not fully placate all Californians. Many non-Indian residents developed a concept of dual-fates for the regions native inhabitants: either they were made useful to developing societies through their labor or they would be destroyed. By the establishment of the California Constitution in 1849, the lack of control Indians had over their own lives even became a partial cause for their disfranchisement.

The effects of these situations created the atmosphere in which the California legislature developed and implemented the 1850 "An Act for the Government and Protection of Indians." The overall intent of this legislation was to codify and institutionalize control over Indian life. Of primary importance was the control over Indian land and labor. By 1850, Indian labor was immensely valuable in California's developing economy. In order to increase access to that labor, legislators allowed forms of compulsive Indian labor practices, such as the Act's convict and vagrancy labor provisions. They in turn disallowed Indian input into the management of Indian affairs, relegating them to working class peons. In addition, by removing legal protections for Indians, the Act rendered Indians defenseless against depredations by California's non-Indian population. The detrimental effects the Act had on the Indian population, both through its original construction and subsequent amendments through the 1850s and 1860s are the cause for the Act's current historical criticisms.

It is clear that there are still considerable opportunities for future research on forced labor systems in California, especially surrounding the creation of the 1850 Indian Act. Researchers should continue to explore and analyze the regional differences in how the Act was implemented, as well as how it contributed to the

overall destruction of California Indians in the years after statehood. However, another interesting aspect of this history, briefly discussed in this paper, was the existence of arguments in the defense of the Indian population during this period. Although these arguments were seemingly ineffectual, their inclusion in any study of this period provides contextual evidence that not all residents of the state were in support of these policies.

Consideration of these aspects of California history will allow future scholars to continue building accurate portrayals of Indian realities in the state's early periods.

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