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# "The Lawmen Faced the Outlaws, No Badge Upon a Breast:" Historical Memory and the Legacy of Henry Plummer and the Montana Vigilantes

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**"THE LAWMEN FACED THE OUTLAWS, NO BADGE  
UPON A BREAST:" HISTORICAL MEMORY AND THE  
LEGACY OF HENRY PLUMMER AND THE MONTANA  
VIGILANTES**

By

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Thesis

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Abstract: "The Lawmen Faced the Outlaws, No Badge Upon a Breast:" Historical Memory and the Legacy of Henry Plummer and the Montana Vigilantes

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In the winter of 1863-1864, the Montana vigilantes hanged over twenty men in and around Bannack and Virginia City, including the region's elected sheriff, Henry Plummer. The mob claimed that these men were members of a highly-organized Road Agent Gang. While no evidence of this organization of highwaymen exists, the episode endures in the popular history of Montana; this thesis explores four elements of the legacy of this episode. First, it presents a biography of Henry Plummer and brief summary of the organization and actions of the Vigilance Committee. Second, it establishes an historiography of the episode; it couches the changes in the presentation of the myth within larger national conceptualizations of violence and the rights of the accused. Third, via sociological and anthropological theories about civil violence, it explores the social and cultural context in which this series of violent incidents occurred. Finally, it places the myth of the Montana vigilantes within an overarching national mythological and ideological framework that grew out of the collective colonial experience. This final chapter includes a theory as to why the vigilantes are regarded as heroes in the region; through a reinterpretation of Eric Hobsbawm's theory of social banditry, this chapter argues that the vigilantes fit the description of social bandits, and this contributed directly to their reputations as heroes. Overall, this thesis encourages a more nuanced analysis of this popular regional myth and discusses why it may have been remembered as it has.

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*"In any case, there is in history no resurrection. There is only cultivated meaning, although our common prejudice is otherwise.... History, by common sense, is the past itself. It is independent of our knowing, as wild as reality, controlled and ordered like life, perhaps, but not by us."<sup>1</sup> – historian Greg Dening*

*"What is distinctively 'American' is not necessarily the amount of violence that characterizes our history but the mythic significance we have assigned to the kinds of violence we have actually experienced, the forms of symbolic violence we imagine or invent, and the political uses to which we put that symbolism."<sup>2</sup> – historian Richard Slotkin*

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<sup>1</sup> Greg Dening, *The Death of William Gooch* (Honolulu: University of Hawaii Press, 1995), p. 13.

<sup>2</sup> Richard Slotkin, *Gunfighter Nation* (New York: Atheneum Press, 1992), p. 13.

## Introduction

In history, it is not merely facts in chronological order that hold meaning. Rather, much more important information is bound up within the manner in which cultures and communities remember and retell historical facts. Histories are not remembered as a series of discrete fragments of information, but instead as mythologized narratives inextricable from ideological frameworks. Storytellers as performers of social and cultural narratives make deliberate choices; the mythmakers and those who re-tell the myths include and exclude certain information or lack thereof, and assign symbolic meaning to events and individuals. This thesis aims to explore the mythological layers of the vigilante episode in Montana in 1863-1864 from the larger national and regional mythological framework in which it occurred as well as how and why the story has been preserved as it has.

The precise nuances of how the vigilante episode of 1863-1864 unfolded in Bannack and Virginia City, Montana, probably never will be known. This has not prevented many storytellers – amateur and professional alike – from performing, retelling and publishing mythologized versions of the events. Early works and popular recollections of the vigilantes laud the posse as heroic, and those vanquished as unequivocal malefactors. Although more recent scholarship challenges the notion of vigilante as hero and seeks to redefine the meaning of this episode, it falls into the same traps as the earlier interpretations against which it rails; both camps seek to rearrange the facts ever so slightly, and liberally apply and reapply the labels of "good" and "evil".

As Greg Dening's quote implies, the ultimate reality of the past is never completely understandable from a modern perspective. However, the meaning encased

within the *how* and *why* of remembering and retelling of this particular story and its diverse contexts holds a vast amount of insight into frontier violence and politics, the American affinity for outlaws, and the Montana identity past and present. This project seeks to abandon the debates over chronology and assignment of moral judgment, and instead seeks to understand the Montana vigilance committee as an example of frontier violence within wider frameworks of American traditions of violence, and collective identity through performances of values and mythology. During the last 150 years, different communities have remembered, performed and retold various versions of the Montana vigilante episode, each of which is significantly informed by the community's cultural and political context. The 1863-1864 vigilante episode as a creation myth and myth of self-definition reveals the political and ideological interests of local communities, but as an example of American and Western violence, the episode represents motives on regional, national and human levels that are both unique to Montana and similar to other instances of American extralegal violence.

Popular history is a social construction both in terms of content and context. People, places and events in historical memories of the West have symbolic connotations beyond facts. The information that various communities remember – and what they omit – and how they remember, retell, define and perform those facts can reveal information about those cultures. Specifically, the details of retold narratives can indicate significant cultural, political, and ideological trends among those groups. The vigilantes – as remembered by different groups of Americans at various points in time – represent cultural value sets and political inclinations.

This thesis will begin with a presentation of the most accurate overview of Henry Plummer's biography that I was able to assemble based on records and the work of other

historians. The first chapter aims to offer a more fact-based alternative to popular presentations of Henry Plummer's past. Through this exploration of his past, it becomes clear at what points other groups of people – whether politically or geographically distinct from Plummer – begin to deliberately select what facts form his background to highlight or disregard. In other words, this chapter by no means strives to argue whether or not Plummer was guilty of the crimes for which he paid the ultimate price, but instead seeks to create reasonable doubt about his guilt in order to demonstrate the process by which the mythologized character of the two-faced sheriff was crafted.

The second chapter charts the trends in the published work on the vigilantes. No previous scholarship has offered a full historiography of this story, nor has it explored the local and national implications of the legacy of the vigilantes in Montana. Beginning with the earliest published material on the events of 1863-1864 and ending with the most recent books on the subject, this chapter discusses the trends in the interpretations of the story. Furthermore, it offers theories as to the socio-political factors that shaped the trajectory of these printed interpretations.

Chapter three explores the non-printed mythological contexts of the vigilante episode. From the narratives expressed through the act of hanging as execution to the earliest local discussions and iterations of the vigilantes' actions to more recent efforts to contextualize the vigilante episode within Frontier mythology, this chapter explores the layers of narratives that involve and inform the story. The events of 1863-1864 were influenced by a larger American ideology and mythology that defined the roles of violence and justice in the course of westward expansion, industrialization and urbanization. This chapter examines the vigilante episode through the lenses of symbolic

proxy conflicts against the wilderness and its inhabitants, and concludes with a discussion of contemporary performances of the myth.

The fourth and final chapter explores how Henry Plummer fits into the larger context of American outlaws. Men such as Butch Cassidy, Jesse James and Billy the Kid are remembered with fascination – even fondness – despite their criminality in life. Henry Plummer does not merit a place on that list. Why not? At first glance, he seems the ideal figure to which to apply the "bandit with a heart of gold" cliché, and yet, he is never given this benefit of the doubt. Rather, he is remembered as ultra-sinister; he was not merely some garden-variety thief, but managed to dupe good Western townsfolk into handing him a badge! Utilizing Richard White's application of E.J. Hobsbawm's theory of social bandits, I present a handful of hypotheses as to why Henry Plummer is not remembered alongside these other famous American outlaws and why the vigilantes, to this day, enjoy hero status.

Overall, this thesis will explore the vigilante episode in Montana in 1863-1864 in a fresh fashion. By moving beyond assumptions and ethical overlays that have plagued many other discussions of these events, this project explores how the vigilante episode was in and of itself an explicit performance of prevalent ideologies. Furthermore, this thesis will forge new connections to other theories about American violence, vigilantism and the Myth of the Frontier.

## Chapter I – Reasonable Doubt

### Gold on Grasshopper Creek

Placer mining in California had become more difficult by 1860, and many men who had arrived to seek their fortunes had turned eastward toward Nevada in hopes of striking it rich. Soon, these gold seekers spread northward into modern-day Idaho and Montana. One of these prospectors, John White, made one of the most crucial discoveries in the region's history. On July 28, 1862, White was exploring a creek previously named Willerd's Creek, an appellation given it by Lewis and Clark during their traverse of the Beaverhead watershed nearly fifty years earlier.<sup>3</sup> White renamed the tributary Grasshopper Creek – in honor of the swarms of the insects that seemed to encrust the banks – but more significantly, found the flecks of gold that triggered a massive influx of gold-seekers into the Grasshopper Creek drainage.<sup>4</sup>

The Pioneer Mountains rise as steep, pine-covered pitches from the valleys of the Beaverhead to the east and the Big Hole to the west. At the southern end of the range, Rattlesnake and Grasshopper Creeks flow at southern angles into the Beaverhead River. It is an unforgiving environment of extremes, like many in the Rocky Mountain West; the heat and wind of summers stunt the vegetation in the gently-sloping valley, and the riverbanks seem the only oases of green with cottonwoods and lush grass. Winters are equally brutal, and on the flats, only tough sagebrush and bunchgrasses return each spring. In many ways, the region represents the quintessential image of the American

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<sup>3</sup> Merrill G. Burlingame, *The Montana Frontier* (Helena: State Publishing Company, 1942), p. 83-85.

<sup>4</sup> Frederick Allen, *A Decent, Orderly Lynching: The Montana Vigilantes* (Norman: University of Oklahoma Press, 2004), p. 5.

West. Such a backdrop has undoubtedly contributed to the classic, almost cinematic fashion in which one of Montana's most important episodes of justice unfolded.

In response to White's discovery of gold, miners flooded into the Grasshopper Creek drainage, and a camp began to form: Bannack. Gold camps, especially those outside of California, were characteristically isolated from established urban centers. This isolation and instability created demand for a local economic infrastructure; in other words, on the heels of the miners came blacksmiths, merchants, saloon-keepers and other entrepreneurs.<sup>5</sup> Bannack was no exception. Meanwhile, 70 miles to the east, prospectors had discovered more gold in and around Alder Gulch. In the wake of these successful claims, Virginia City and Nevada City began to take shape.

The railroad had not yet reached this part of the country, and the only means of transportation for people and goods between mining camps and to distant urban centers was via stagecoach. "By the autumn of 1863," explains author Frederick Allen, "wealthy miners and merchants were traveling back and forth from Bannack to Nevada City and other towns along Alder Gulch, and from there south to Salt Lake City or north to Fort Benton, the head of navigation on the Missouri River."<sup>6</sup> Not only were these communities relatively isolated, they were also unorganized in terms of political structure, which left considerable room for marginalized or less-than-upstanding men to take advantage of others. On the fringes of mining camps in the American West, robbers and highwaymen victimized travelers and stole money and other goods. While this scenario did play out in and around many mining camps, its frequency was undoubtedly exaggerated. "Due to the dangers inherent in transporting gold dust from the mines, myths of robber gangs were

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<sup>5</sup> Duane A. Smith, *Rocky Mountain Mining Camps: The Urban Frontier* (Lincoln: University of Nebraska Press, 1967), p. 6, 16.

<sup>6</sup> Allen, *Decent, Orderly Lynching*, p. 9.

prolific in the West," explain historians R.E. Mather and F.E. Boswell. "California, Washington, Colorado, Nevada and Idaho were all supposed to have their highly organized criminal networks."<sup>7</sup>

The version of this story that played out in Bannack – including road agents and the vigilantes – shares many characteristics with these other stories.<sup>8</sup> According to one of the first writers on the Montana vigilantes, Thomas Dimsdale, the massive influx of people to the towns on Alder Gulch and Bannack was impressive both in size and diversity. "Among the later arrivals were some desperadoes and outlaws, from the mines west of the mountains. In this gang were Henry Plummer, afterwards the Sheriff, Charley Reeves, Moore and Skinner. These worthies had no sooner got the 'lay of the country' than they commenced operations."<sup>9</sup> Dimsdale is correct in listing these men as significant players on the scene, but makes an exaggeration in stating that they arrived as an already-organized gang, ready to prey on the miners of Bannack. Henry Plummer did not arrive in Bannack in the company of Reeves, Moore or Skinner. Plummer's path to Bannack was long and complicated, and perhaps sheds some light on the manner in which events unfolded in the gold fields of Montana.

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<sup>7</sup> R.E. Mather and F.E. Boswell, *Vigilante Victims: Montana's 1864 Hanging Spree* (San Jose: History West Publishing Company, 1991), p. 164.

<sup>8</sup> Ibid.

<sup>9</sup> Thomas J. Dimsdale, *Vigilantes of Montana or, Popular Justice in the Rocky Mountains* (Helena: State Publishing Co., 1915), p. 20. Capitalization and bold text by author.

## The Lawman and the Outlaw

Henry Plummer is the enigmatic center of gravity in this story. Most likely, he will remain a mystery forever. For the few who sympathize with him, perhaps this is part of his appeal. For those who condemn him as the personification of evil in the West, those unknown pieces of the story are brimming with undocumented sinister deeds. Plummer did not leave any papers or journals of his own, and although relatively little is known about him, the information that has endured offers insight into how he became sheriff of Bannack in 1863. What follows is my reconstruction of the known events of his life as laid out by the story's best recent historians.

Exact records of Henry Plummer's birth do not exist; therefore, his precise lineage remains unclear. Historians have offered a few theories about his background. "Langford... claimed Plummer was born in Connecticut in 1836," explain historians Mather and Boswell.<sup>10</sup> "Dimsdale's brief biography of Plummer disagrees with Langford's suggestion that the place of birth was Connecticut... Dimsdale has in mind the theory... [that] Henry Plummer was born in Maine and moved to Wisconsin with his family." However, 1880 census records reveal that none of the Plummer family in Wisconsin went to Montana, nor were any of them law enforcement officials.<sup>11</sup> Mather and Boswell also discard another theory: one "William Henry Plumer<sup>12</sup>" was born in

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<sup>10</sup> R.E. Mather and F.E. Boswell, *Hanging the Sheriff: A Biography of Henry Plummer* (Salt Lake City: University of Utah Press, 1987), p. 194.

<sup>11</sup> *Ibid.*

<sup>12</sup> Plummer's name is spelled with one 'm' in earlier documents and in California, but by the time he reached Bannack, was spelled with two 'm's.

1835 in Winchester, New Hampshire, but like the Plummers of Wisconsin, later census information reveals that this man lived past 1864.<sup>13</sup>

Mather and Boswell conclude based on prison records and vital records in Maine that Plummer was born to Jeremiah and Elizabeth Handy Plumer. They list the other Plumer children as Wilmot and Rebecca.<sup>14</sup> "However, records in *Early Pleasant River Families [of Washington County, Maine]* suggest that the authors are mistaken. Jeremiah Plumer was married to Elizabeth "Betsey" Wass, not Elizabeth Handy, and while the couple had children named Wilmot and Rebecca, they did not have a son named Henry," explains Frederick Allen. "It appears far more likely that Henry Plummer was the son of Jeremiah Plumer's brother, Moses Plumer IV, as the records show an unnamed son born to Moses Plumer IV and his wife, Abigail 'Nabby' Wass, in the years 1830-1835. Lending further credence to this theory is the fact that 'Nabby' Wass had an older brother named Henry, for whom she might well have named a son."<sup>15</sup> Although Allen's theory seems to be the most historically sound, Plummer's exact place and date of birth remain mysterious.

In 1852, when Plummer was in his late teens, he made his way to California. Via New York City and Panama, Plummer arrived in San Francisco on May 21, 1852 on the steamer *Golden Gate*.<sup>16</sup> The following year, he moved to the Wilson Valley to the north of Nevada City and, along with a partner named Robinson, tried his hand at livestock ranching.<sup>17</sup> Five months later, Plummer and Robinson ran an advertisement in the *Nevada*

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<sup>13</sup> Mather and Boswell, *Hanging the Sheriff*, p. 194-195.

<sup>14</sup> Mather and Boswell, *Vigilante Victims*, p. 176-177. Allen, *Decent, Orderly Lynching*, p. 373.

<sup>15</sup> Allen, *Decent, Orderly Lynching*, p. 373. Note # 2, Chapter 1: Maine to California.

<sup>16</sup> *Ibid*, p. 22.

<sup>17</sup> *Ibid*, p. 23. Allen cites the July 3, 1853 edition of the *Nevada Journal* newspaper, as do Mather and Boswell, *Hanging the Sheriff*, p. 122.

*Journal* "saying that a large, bay-colored ox 'marked with a triangular figure on the right hip,' had wandered into their corral and could be claimed by the rightful owner. Thus," explains Allen, "Plummer appeared for a second time in public print, making an honest gesture."<sup>18</sup>

Cattle ranching apparently did not suit Plummer well, and after less than a year, he gave up and moved into Nevada City and took up work in a local business, the United States Bakery. Owned by Thomas Hern and Henry Heyer, the bakery sold not only breads and cakes, and catered local events, but also sold a wide array of other perishable goods. In April of 1854, Plummer "bought out Hern and became Heyer's partner," and within a couple of months, purchased a two-room house of his own near the Nevada City business district.<sup>19</sup> Business was brisk, and when the bakery's leading competition suffered a devastating fire, Plummer and Heyer's bakery flourished. Fortunately, "the United States Bakery was bypassed by the flames. The month following the fire, Plummer bought out his partner and took over the business alone, only to receive such a good offer himself that he in turn sold out. Then he and Heyer repeated the exact process," explain Mather and Boswell. The partners opened the Polka Saloon and the City Bakery, both of "which Heyer sold to Plummer and which a short time later Plummer also sold."<sup>20</sup>

Plummer proved a shrewd investor and businessman, and for these couple of years, seemed to live quite well by mining camp standards. However, an economic downturn in the fall of 1855 in Nevada City brought an end to this prosperity.

Unexpectedly, in November of that year, Nevada City's marshal, C.B. Evans, resigned

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<sup>18</sup> Allen, *Decent, Orderly Lynching*, p. 23. Plummer's first appearance in print was a notice that a letter was held for him at the Nevada City Post Office upon his arrival.

<sup>19</sup> *Ibid*, p. 24.

<sup>20</sup> Mather and Boswell, *Hanging the Sheriff*, p. 124-125.

from duty. He was succeeded by one of his deputies, David Johnson. When Johnson took over as marshal, he left behind a vacant deputy position. Precisely how the city council selected Plummer for the position is unclear, but nonetheless he assumed public office for the first time. Allen speculates that Plummer's selection for the post may have been due to his amiable relationships among saloon and brothel-keepers in Nevada City. "Because of his work for the bakery, Plummer had become a familiar and reassuring figure in Nevada City's barrooms and bordellos. Their owners likely said a word in his behalf to the city fathers, who leavened their desire for reform with a practical recognition of the need to provide safe, discreet outlets for the appetites of a population of young, single men."<sup>21</sup>

During the mid-1850s, like the rest of the nation, California was deeply divided politically. Despite his Northern upbringing, Plummer had made his Democratic sympathies clear. Allen suggests that this choice reflected his tendency to find social connection to "broadly speaking, [the] have-nots... In Plummer's region of northern California, Democrats generally tended to be wage-earners rather than business owners, miners rather than merchants, immigrants rather than natives, Catholic rather than Protestant... liberal rather than conservative." Allen goes on to note that "by embracing the Democratic Party, Plummer put himself at odds with his boss, David Johnson, and also with the top lawman in the county, Sheriff W.W. 'Boss' Wright, both American [Know-Nothing] Party loyalists."<sup>22</sup> The following spring, Nevada City held open elections for the position of marshal. Plummer ran on a Democratic ticket against Johnson, of the Know-Nothing Party. During the campaign, Allen observes, "Plummer demonstrated a talent for currying favor with older, better-established men, including

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<sup>21</sup> Allen, *Decent, Orderly Lynching*, p. 26.

<sup>22</sup> *Ibid*, p. 27.

Tallman Rolph, the editor of the *Democrat* [a local newspaper], who praised him as articulate, well-mannered, earnest and capable." On May 2, 1856, the citizens of Nevada City elected Henry Plummer to the position of city marshal by an extremely narrow margin, a mere seven votes.<sup>23</sup>

When Plummer assumed this new post, he was relatively inexperienced as an officer of the law. Allen points out that "Plummer's rude apprenticeship took place at the very moment [nearby] San Francisco was seized by political crisis, as... [a] vigilance committee... led by prominent businessmen, began cracking down on a city government run by Irish Catholic, working-class Democrats." In other words, Henry Plummer experienced politically-driven vigilante action for the first time. While he was not a specific target, as he was not in San Francisco, "Plummer [may well have] formed a deep distrust of vigilante justice, seeing its contempt for the rule of law as a direct threat to his friends, his new profession and his personal safety."<sup>24</sup> Moreover, California had been accepted into the Union as a free state, a decision not free from controversy. As disagreements over slavery on the national level mounted, these political tensions provided a dramatic backdrop to Henry Plummer's entrance into law enforcement.

On Friday, June 6, 1856, slightly a month after Plummer assumed his post as marshal, he happened into a conflict in a Nevada City saloon. Two patrons began shoving each other, and when Plummer attempted to arrest them, the establishment's owner – a Mr. Lewis – reacted indignantly toward the marshal's interference. The conflict escalated quickly when Lewis pulled a pistol and fired twice; he wounded one of the pair who started the fracas and killed one of the men who had arrived with Plummer. Clearly,

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<sup>23</sup> Allen, *Decent, Orderly Lynching*, p. 28, Mather and Boswell, *Hanging the Sheriff*, p. 126.

<sup>24</sup> Allen, *Decent, Orderly Lynching*, p. 31.

Plummer did not instigate the conflict, nor had he fired; the fact that he allowed the conflict to escalate demonstrates his inexperience as a lawman. "A grand jury indicted Lewis for murder in the affair, and Plummer was absolved of any fault."<sup>25</sup> While the grand jury's ruling announced Plummer's innocence in the eyes of the law, the population of Nevada City now associated his name with an episode of serious violence.

In addition to keeping the peace in Nevada City, Plummer's responsibility as marshal included preventing fires from ravaging the city. "Mining camps were extremely vulnerable to destructive fires. The closely built, hastily constructed buildings, dried by wind and weather, sat like tinder awaiting the spark."<sup>26</sup> Nevada City was no exception, and on July 19, 1856, a fire "started in a blacksmith shop [and] swept uphill from lower Main Street and destroyed half of Nevada City in a matter of hours."<sup>27</sup> Not only was the conflagration a major embarrassment to the marshal, it also took ten lives and destroyed countless wooden structures. The blaze also ruined the city's recently-constructed courthouse and "escape-proof" jail. Allen suggests that "the saloon fight and the fire had the effect of widening the rift that already existed between Marshal Plummer and Sheriff Wright." Wright had since hired Johnson – the man against whom Plummer had run in the race for marshal – as his deputy. "Fairly or not, the Know-Nothings enjoyed a better reputation than the Democrats for supporting and enforcing law and order. Following the violent partisan clash in San Francisco, the mood of political distrust in northern California reached a fevered pitch, with adherents of the... parties viewing each other as little better than criminal classes."<sup>28</sup> This set of events and conditions set the stage for

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<sup>25</sup> Allen, *Decent, Orderly Lynching*, p. 29.

<sup>26</sup> Smith, *Rocky Mountain Mining Camps*, p. 93.

<sup>27</sup> Allen, *Decent, Orderly Lynching*, p. 31, Art Pauley, *Henry Plummer: Lawman and Outlaw* (White Sulphur Springs, Montana: The Meagher County News, 1980), p. 35.

<sup>28</sup> Allen, *Decent, Orderly Lynching*, p. 32.

trouble: power struggles among branches of law enforcement, exacerbated by political differences, and a mining camp without a secure jail facility.

As the granite jail had been destroyed, Nevada City law enforcement had to rely on a makeshift cell with a padlock and single guard while a more reliable structure was constructed. In October, Plummer arrested a man for armed robbery and placed him in holding in the rudimentary jail. The prisoner, Jim Webster, wasted no time tunneling his way out. Plummer recaptured Webster, only to have him escape a second time along with two other men. "Plummer meant to bring in all three, but first he approached Sheriff Wright and insisted that the county pay his expenses, since the escapees were county prisoners. Wright agreed, then demanded in turn that he be part of the posse."<sup>29</sup> Plummer consented to Wright's participation in the manhunt.

When Marshal Plummer had arrested Webster the first time, the prisoner had requested to speak with a friend at a cabin in Gold Flat, about an hour's ride outside of town. Plummer suspected that this might be where the escapees were hiding, but instead of leading the posse out immediately, Plummer told Wright that he would be too busy during the day to attempt the recapture. Around five o'clock that evening, Plummer sent a note to Wright requesting another half hour before departure. It seems that Plummer's procrastination was an attempt to lose the sheriff; perhaps he "hoped the sheriff would grow tired of waiting or be called away to some other duty."<sup>30</sup> However, at half-past five, the marshal, sheriff and Plummer's top deputy rode out to Gold Flat.

As the small team drew near the cabin, Plummer discovered that another posse of horsemen had been riding behind them. Sheriff Wright had assembled a secondary team without Plummer's knowledge, which very likely made him furious. Among the sheriff's

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<sup>29</sup> Ibid. *Nevada Journal*, October 10, 1856, Pauley, *Henry Plummer*, 35.

<sup>30</sup> Allen, *Decent, Orderly Lynching*, p. 33.

second posse was Plummer's political rival David Johnson. Setting frustrations aside, Plummer led the lawmen silently toward the cabin. Suddenly, the posse encountered another group of men hiding in the woods. One of them shouted to Plummer, telling him not to come any closer. Johnson demanded what the men were doing there, and they shouted back the same question. Suddenly, "both sides opened fire in a quick, lethal fusillade of fifty or more shots... It was Plummer, by all accounts, who realized the awful truth, that the enemy fire was not coming from the fugitives but from a group of interloping innocents – a vigilante group that had despaired of the lawmen ever arriving and taken matters into their own hands."<sup>31</sup> Plummer shouted in desperation for the men to stop firing, that they were killing their friends! Meanwhile, the escaped convicts managed to flee both the lawmen and the vigilantes.

Both parties stopped shooting, and realized what had happened. Sheriff Wright lay dead; he suffered gunshots to the jaw, neck and chest. "David Johnson, they learned later, had managed to make his way on foot to the home of one of the vigilantes, where he lay mortally wounded."<sup>32</sup> Johnson eventually died. Immediately, a coroner's jury convened in order to figure out precisely what had unfolded in the dark woods on Gold Flat. The transcript of that hearing preserved Plummer's firsthand account of the event.

Wright and I stepped back a few feet toward the horses. The shots started coming fast and thick now, and I saw a man jump behind a big stump in the center of the ravine. Wright ran for him. This man put his pistol out and fired and Wright fell... Almost immediately, I recognized Wallace Williams [a prominent local lawyer] by the flash of Garvey's gun. I called him by name, and told him to stop, that he was shooting his friends. There were a few shots after this, near where Johnson was attempting to come

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<sup>31</sup> Ibid.

<sup>32</sup> Ibid, p. 34.

down. They stopped and we all came together. Someone brought a candle.  
Then we knew it was a mistake.<sup>33</sup>

The coroner's jury ruled that both Wright and Johnson's deaths were accidental. However, the verdict did not still a few critical voices. "In his testimony, reported prominently in the partisan [Know-Nothing] *Journal*, [Wallace] Williams suggested that Plummer had run like a coward at the sound of the first shot." Plummer was furious to be accused of such cowardice, and responded by publishing a response letter in the *Nevada Democrat* on November 19, 1856. In a dramatic tone, Plummer proclaimed that "unlike Mr. Williams, my own courage is dependent on my own testimony under oath, not on the trumpeting of the press. I will leave this subject with the hope that he may enjoy the reputation for which he longs and I such as I deserve."<sup>34</sup>

Plummer, once again, was innocent in the eyes of the law, but was center stage in an incident that ended very badly. Likely in an attempt to maintain good standing in public opinion, he continued to make outstanding efforts at keeping the peace and preventing fires in Nevada City. In the following months, Plummer made so many arrests of wanted men that even the Know-Nothing *Journal* praised his "considerable ingenuity."<sup>35</sup> He was reelected to the position of marshal in May of 1857, this time by a much more significant margin: 417 to 305 votes.<sup>36</sup>

Plummer's hard work seemed to be paying off; shortly after his reelection, the Nevada County Democratic Convention nominated him as a candidate for representative in the state assembly of the California legislature. His candidacy immediately created a

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<sup>33</sup> Allen, *Decent, Orderly Lynching*, p. 34.

<sup>34</sup> Ibid, p. 35. Plummer's letter from the *Nevada Democrat*, November 19, 1856.

<sup>35</sup> Allen, *Decent, Orderly Lynching*, p. 36. *Nevada Journal*, April 15, 1857. Cited by Mather and Boswell, *Hanging the Sheriff*, p. 139.

<sup>36</sup> Allen, *Decent, Orderly Lynching*, p. 36. Allen cites Pauley, *Henry Plummer*, p. 50.

flurry of opposition from his enemies in both parties. Newspaper articles and flyers accused Plummer of taking money from brothel and saloon owners, and of aligning himself with the marginalized, rough-and-tumble element of the Democratic constituency instead of the more upstanding factions of the coalition. The upshot of these accusations was that Plummer lost votes in the mining class, and while the four other Democratic candidates were elected to the legislature, Plummer lost his seat to a Know-Nothing.<sup>37</sup> Plummer must have been disappointed by this defeat, but things were about to get even worse.

Early in 1857, John Vedder and his wife, Lucy, moved to Nevada City and rented a house on Spring Street from Henry Plummer.<sup>38</sup> The Vedders quickly acquired a reputation for loud and violent conflict. According to Lucy's testimony at the later trial, she and her husband stayed together because of their year-old daughter. Moreover, John was employed as a card-dealer in a Nevada City card room, and had suspicions that while he was at work, his wife was seeing other men.

During Fourth of July celebrations of that year, Vedder suffered an injury by a rogue bottle rocket, and called on prominent Democratic lawyer, and friend of Henry Plummer, David Belden. Vedder confided in Belden the following month that he was concerned about his wife seeking a divorce and losing custody of his young daughter. According to the trial transcript, Lucy began to suspect that her husband was spying on

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<sup>37</sup> Allen, *Decent, Orderly Lynching*, p. 37.

<sup>38</sup> The vast majority of the information on the Vedder case comes from testimony offered in the trial transcript of *People vs. Plumer*, Nevada County, California State Archives, Sacramento. Allen points out that "the transcript, written in longhand, gives verbatim phrases from witnesses' responses but does not include counsel's questions." Allen, p. 374, note #1, Chapter 2. Other information comes from the *Nevada Journal*, October 2, 9 and 16, 1857, the *Nevada Democrat*, September 29, 1857, and the *Sacramento Union*, September 28, 1857. Also cited in Mather and Boswell, *Hanging the Sheriff*, and Pauley, *Henry Plummer*.

her; one evening in September she saw a man following her, and confronted her husband. He reacted with extreme anger, pulling a Bowie knife and holding it to her throat while threatening to kill her. The following day, Lucy sent for Plummer, requesting protection from her husband. Plummer brought Belden in to offer advice on a potential divorce. Belden urged her to reconcile with her husband.<sup>39</sup>

Vedder was outraged that Belden had spoken to his wife, and confronted Belden about the visit. Frightened by Vedder's outburst, Belden refused to disclose Plummer's name as the one who fetched him to offer divorce advice to Lucy. Within a few days, Lucy and her daughter moved to the nearby Hotel de Paris. In order to protect Lucy from her husband's bouts of rage, Plummer and one of his former deputies – Pat Corbett – rented the room across the hall.<sup>40</sup> This decision provided grist for the rumor mill of Nevada City; the gossip suggested an affair between the marshal and Lucy, and it infuriated Vedder. However, according to Allen, the best historian of these events, there is absolutely no evidence that the relationship between the marshal and Lucy was anything but professional.

A few days later, Vedder visited the Hotel de Paris and picked up his daughter. Testimony indicates that Vedder made comments to acquaintances regarding his fury over Plummer's "affair" with Lucy; he noted that he preferred using his Bowie knife to a pistol. Plummer also commented to a few people that while he understood Vedder had a "hard lot," he would be at risk of kidnapping charges if he was not careful. B.H. Barker recounted at the trial: "He [Plummer] told me that he knew everything Vedder had said or

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<sup>39</sup> Trial testimony by William Draper. Allen, *Decent, Ouderly Lynching*, p. 374, note #3, Chapter 2.

<sup>40</sup> Trial testimony by O. Cheval. *Ibid*, p. 375, note #3, Chapter 2.

done and had no intention of letting Vedder shoot him down, that Vedder might be lucky and get one shot, but that would be all."<sup>41</sup>

Vedder brought his daughter to a friend living outside of town, and made preparations to leave town. He went to Belden's office and requested that the lawyer prepare divorce papers, and together, they visited Lucy to get her signature. After the papers were signed and the men were leaving, Belden warned Vedder to stay away from Lucy to avoid further trouble. Vedder responded, "Do you think I'm a damn fool? She can go to hell her own way." By three o'clock that afternoon, the Vedder divorce was formalized.

However, Vedder did not heed Belden's warning. Or perhaps he was not looking for Lucy at all, but for Plummer. Vedder dined at the Hotel de Paris that evening, but his attitude aroused the suspicion of the owner, who noted that he was pale, and not eating the food he had ordered. Vedder claimed that he was fine, but left the hotel without touching his dinner.<sup>42</sup> George McFadden testified that around dusk that evening, he encountered Vedder on the steps of a rooming house on Broad Street. Vedder asked McFadden if he could borrow a pistol, which McFadden procured for him.<sup>43</sup> Vedder next rode to his friend's ranch to speak to his friend regarding his daughter. Though the divorce agreement stipulated that Lucy would have full custody of the little girl, Vedder announced to his friend that he had changed his mind about custody, and then returned to town without his daughter in tow. At approximately midnight, he went to the house on Spring Street.

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<sup>41</sup> Trial testimony by B.H. Barker, Allen, *Decent, Orderly Lynching*, p. 375, note #5, Chapter 2.

<sup>42</sup> Trial testimony by Draper, *Ibid*, p. 375, note #8, Chapter 2.

<sup>43</sup> Trial testimony by George McFadden, Allen, *Decent, Orderly Lynching*, p. 375, note #8, Chapter 2.

Pat Corbett dined with Lucy Vedder that night at the Hotel de Paris, before he escorted her home and started a fire for her. Lucy planned to collect her daughter from her ex-husband before taking the 2 a.m. stagecoach to Sacramento. Just before midnight, Plummer arrived to relieve Corbett's watch over Lucy. Plummer and Lucy settled into chairs in front of the fire to await Vedder's arrival. Given Vedder's violent outbursts and verbal threats, it is entirely logical that Lucy would have requested protection until she was able to depart.

The events that unfolded in the following few minutes caused an extensive amount of controversy in Nevada City. Vedder arrived at the Spring Street house, and Plummer heard his footfalls on the back stairs. Neighbors heard four gunshots, and moments later, found Vedder at the base of the stairs, lying dead in a pool of his own blood. Pat Corbett picked up the pistol that Vedder had been brandishing. Immediately, Henry Plummer marched up to the jail and told the jailer that he wished to turn himself in. As neighbors and law enforcement gathered to the scene, some witnesses recall hearing a mysterious lone gunshot from across town.<sup>44</sup>

According to Plummer, Vedder climbed the stairs, pistol aimed at him and shouted, "Your time has come!" Plummer maintained that he did not remember who fired first, but the coroner discovered that Vedder suffered one shot to the chest, and another to his arm. Deputies located two more bullets fired from Plummer's position above Vedder: one in the outhouse door, and another in a wall at the base of the stairs. In short, all four gunshots were accounted for, and all four had come from Plummer's gun. Lucy told the same story, swearing that Vedder fired first. Pat Corbett turned in the pistol that he had picked up at the scene, and it had clearly been fired. Perhaps the later gunshot was

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<sup>44</sup> Allen, *Decent, Orderly Lynching*, p. 43, 44.

Corbett's attempt to support Plummer's version of the story. Or perhaps Vedder did fire once and the bullet was simply not located during the investigation.<sup>45</sup>

If Plummer was not romantically involved with Lucy Vedder and was genuinely dedicated to performing his professional duty of protecting her, which is an entirely plausible scenario, then he would have very little motive to kill Vedder beyond self-defense. That Corbett picked up Vedder's Colt pistol from the ground indicates that Vedder had the weapon drawn. If Vedder was pointing the gun at Plummer, especially in close range, a reasonable interpretation of self-defense would not require Vedder to fire first. Or perhaps Plummer was overly hasty in his reaction, and Vedder was not planning any violence toward the marshal or his ex-wife.

"On October 15, 1857, the Nevada City grand jury indicted Plummer for murder."<sup>46</sup> Belden, acting as council for the defense, requested a re-trial on the grounds that people in Nevada City had a biased view of Plummer due to the previous year's political propaganda. Belden's request was approved, and Plummer went to trial again for Vedder's murder. On December 27, the jury delivered its verdict: guilty. On January 18, despite Belden's pleas for yet another trial with truly unbiased jurors, the judge sentenced Henry Plummer to twelve years hard labor at San Quentin, but freed Plummer on a \$10,000 bond "while Belden prepared an appeal to the California Supreme Court. On the same day, Plummer resigned as marshal."<sup>47</sup>

Belden's appeal was successful, and the California Supreme Court approved another trial. In Marysville – a mining town approximately thirty miles west of Nevada City – nearly a full year since Vedder's death, Plummer again stood trial. "The testimony

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<sup>45</sup> Ibid, p. 45.

<sup>46</sup> Allen, *Decent, Orderly Lynching*, p. 44.

<sup>47</sup> Allen, *Decent, Orderly Lynching*, p. 47. *Nevada Journal*, January 1 and 22, 1858.

was virtually the same as before," observes Allen, "and so, surprisingly, was the verdict... The judge sentenced Plummer to ten years at hard labor... on February 22, 1859, he reported to San Quentin to begin serving his time."<sup>48</sup>

Prison records describe "Convict Number 1573" as just under five feet, nine inches, weighing approximately one hundred and fifty pounds, with two moles on the nape of his neck, another on his left shoulder, and a nasty scar on his left fore-finger, along with three badly-scarred and crippled fingers on the same hand. His complexion was described as fair, with "light brown hair, and gray eyes."<sup>49</sup> In addition to these physical traits, the prison's doctor recorded Plummer's chronic lung illness. Dr. Taliaferro thought that due to this condition, Plummer should be housed in the sick bay on the ground floor of the prison "... and he made Plummer his assistant, sparing him from the chain gang and the quarry. Granted the status of a trusty, Plummer was given the run of the infirmary and allowed to perform errands for Dr. Taliaferro outside the prison."<sup>50</sup>

Despite this gentler treatment, Plummer's health deteriorated rapidly during his incarceration. On July 14, Taliaferro and the San Quentin's other physician, T.B. Heiry, drafted a petition to the governor, John Weller. The petition explained that Plummer "is labouring under a disease which will in a short time prove fatal." It specified his condition as "a disease of the lungs, commonly called consumption, and in all probability he will not be able to live, in his present situation, more than five or six months at the

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<sup>48</sup> Ibid, p. 48. Transcript of second trial. *Nevada Journal* and *Nevada Democrat*, September 15, 22, and 29, also cited by Pauley, *Henry Plummer*, p. 68.

<sup>49</sup> Mather and Boswell, *Hanging the Sheriff*, p. 163.

<sup>50</sup> Allen, *Decent, Orderly Lynching*, p. 49.

furthest," and ended with a recommendation for Plummer's "speedy removal from confinement before it is too late."<sup>51</sup>

Plummer's friends heard about his condition, and took the opportunity to circulate a petition around Nevada City to request his release. "The list of petitioners was impressive, not necessarily because of its length, but because all those who had signed were leading citizens serving in positions that had given them the opportunity to deal with Plummer professionally..." Pat Corbett delivered this petition to Governor Weller, along with another letter from Dr. Taliaferro. "Though the doctor's letter presented grounds of poor health, the petitioners believed the pardon should be granted because Plummer was unjustly imprisoned..."<sup>52</sup>

Henry Plummer is a young man having an excellent character, and was elected Marshall of the city of Nevada. The fatal occurrence took place without entraps other than the female, the cause of the tragedy. The deceased when discovered was found with a drawn pistol, one or two barrels of which had been discharged. The proof, as a portion of us knew, was entirely circumstantial as to who first drew a weapon. It is a case when the innocent may suffer the disgrace and mental and bodily suffering of a lengthy incarceration. We therefore urgently solicit your Excellency for this pardon.<sup>53</sup>

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<sup>51</sup> Mather and Boswell, *Hanging the Sheriff*, p. 164. California State Archives, Sacramento. Allen claims that the original petition gave Plummer a prognosis of "five or six weeks" instead of months (*Decent, Orderly Lynching*, p. 50).

<sup>52</sup> Mather and Boswell, *Hanging the Sheriff*, p. 164.

<sup>53</sup> Mather and Boswell, *Hanging the Sheriff*, p. 164. Governor's File on Henry Plummer, California State Archives, Sacramento.

On the August 15, 1859, Governor Weller granted a pardon to Henry Plummer based on his failing health, and on August 16, he was released from San Quentin prison. He had served barely six months of his ten-year sentence.<sup>54</sup>

Upon his release, Plummer returned to Nevada City, but found it difficult to find work and acceptance. Late in the spring of 1860, Plummer departed Nevada City, and moved east to prospect on his claims in Comstock, near present-day Carson City.<sup>55</sup> By fall, he returned to Nevada City. While Plummer no longer held office himself, he was still active politically; he was a member of a Democratic organization that supported Stephen Douglas's presidential campaign of 1860.<sup>56</sup>

Plummer was without steady work, and had fallen from grace in the eyes of many of the citizens of Nevada City, and it seems that he responded to this hostility by retreating into the social fold of the saloons and brothels where he still had friends. On February 13, 1861, Plummer engaged in yet another altercation, further tarnishing his reputation in Nevada City. On that evening, Plummer was at Irish Maggie's, a bordello on Pine Street. "Because of conflicting rumors about what actually took place," explain Mather and Boswell, "some newspapers refrained from going into detail about the story, but the *Journal* had no compunction about writing up a detailed and damaging account, correct or not, of how Plummer had been 'closeted' with a woman when W.J. Muldoon pounded on the door and demanded admittance."<sup>57</sup> Muldoon, upon hearing that the woman was with Plummer, became angry and began to berate Plummer. Provoked by

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<sup>54</sup> Allen, *Decent, Orderly Lynching*, p. 50. Mather and Boswell, *Hanging the Sheriff*, p. 166.

<sup>55</sup> Allen, *Decent, Orderly Lynching*, p. 51-52. Mather and Boswell, *Hanging the Sheriff*, p. 167.

<sup>56</sup> Allen, *Decent, Orderly Lynching*, p. 52.

<sup>57</sup> Mather and Boswell, *Hanging the Sheriff*, p. 169. Allen, *Decent, Orderly Lynching*, p. 52.

Muldoon's epithets, Plummer opened the door. In the ensuing physical conflict, he cracked Muldoon over the head with the butt of his pistol. Authorities did not arrest Plummer, but fearing the repercussions of the altercation, Plummer returned to his claims at the Comstock Lode. Despite the distance, Plummer made conspicuous efforts to settle differences with Muldoon, and the two reconciled. Unexpectedly, Muldoon's condition worsened intensely, and he died a few weeks after Plummer's departure. Still, Plummer escaped all legal charges.<sup>58</sup>

The Civil War erupted in April of 1861, and its shock waves rocked the nation, including communities in the West. Nevada City was no exception. Plummer found himself in a unique political position. While most of his fellow Democrats openly supported the Confederate efforts in the South, Plummer was loyal to the North. Political sympathies played a significant role in the escalation of a conflict in the entryway to Ashmore's brothel in October of that year. Newspaper accounts claim that Henry Plummer and a young man from Missouri by the name of William Riley were "having some words." A known Southern sympathizer, Riley drew his knife and slashed at Plummer's head, slicing through Plummer's hat and leaving a deep gash in his scalp. As the *Nevada Democrat* reported, "Plummer at the same time drew his revolver and fired at Riley. The ball took effect in his left side and must have killed him instantly. Plummer was taken into custody by officer Kennar and lodged in jail."<sup>59</sup>

A local surgeon treated Plummer's head wound while he was in custody. For the following forty-eight hours, Plummer was too weak to stand for more than a few moments at a time. Despite his pitiful condition, he managed not only to escape custody,

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<sup>58</sup> Ibid, *ibid*.

<sup>59</sup> *Nevada Democrat*, October 29, 1861. Cited by Mather and Boswell, *Hanging the Sheriff*, p. 170.

but also depart Nevada City without recapture. As with so many important moments in Plummer's life, the details of how the event unfolded are cloudy at best. The day after his arrest, one "Mrs. Plummer" signed in to pay him a visit. Since no marriage is on record in Nevada City, historians believe that this visitor was the woman from Ashmore's with whom Plummer had developed a relationship. Shortly after her visit, Plummer walked out of the town's jail. Although officials maintained that his escape was an accident, it is likely that Plummer still had friends among the law officers in Nevada City. They realized, as Plummer did, that a second murder charge would result in his return to San Quentin to serve a much longer sentence. In an official statement to the *Nevada Democrat*, officers claimed that "There is no prospect of his [Plummer's] being caught. The circumstances connected to the killing of Riley as generally understood would hardly justify Plumer's conviction for murder. But this being the second man he has killed in Nevada and knowing there was a strong prejudice against him in the county, he doubtless thought it prudent not to risk a trial." The paper went on to conclude "If Plummer shows as much tact in staying away from the county as he did in leaving the jail, the community should have no particular reason to deplore his departure as the cost of an expensive trial would probably result in him leaving here, a most useless if not dangerous man."<sup>60</sup>

Despite his seriously weakened condition, Plummer departed Nevada City in the early days of November, 1861. Crossing the Sierra Nevada, Plummer arrived in Carson City and called upon an old acquaintance, Billy Mayfield. Mayfield was "a professional gambler and petty criminal," and despite his Confederate sympathies, welcomed Plummer into his tiny cabin. Although Plummer's escape and departure received the quiet blessing of Nevada City officials, the county had issued a warrant for his arrest. Word of

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<sup>60</sup> *Nevada Democrat*, October 31, 1861. Cited by Mather and Boswell, *Hanging the Sheriff*, p. 171.

the escape and warrant reached John Blackburn, the sheriff of Carson City. Mayfield's reputation immediately curried Blackburn's suspicions, and the sheriff confronted the criminal about Plummer's whereabouts. Although Mayfield continued to claim ignorance, Blackburn continued to badger him; the tension between the two mounted, and one evening, exacerbated by whiskey, the conflict escalated to a fatal pitch. In a saloon on the night of November 18, Blackburn threatened to take Mayfield into custody and attempted to do so. Mayfield responded by repeatedly plunging a hunting blade into the sheriff's chest.<sup>61</sup>

With Mayfield in custody, Plummer most likely departed Carson City. His whereabouts during the brutal winter of 1861-1862 remain a mystery. Eight months later, Plummer's name appeared on the ledger of the Luna House hotel in Lewiston, Idaho, on July 24. "Why Plummer used his real name when he surfaced, and accurately listed Nevada City, California, as his last place of residence, is difficult to fathom," observes Frederick Allen. Perhaps Plummer was so well-recognized among mining town populations that he felt hiding his name was futile. Alternatively, as he was traveling in the company of escaped convicts Charles Reeves and William Ridgley, he might have thought that embracing his reputation might deter efforts of locals to recapture the three of them. Or perhaps, Allen suggests, "despite all that had happened, Plummer still clung to a willful hope of establishing himself anew on a fresh stage... In short, he may have thought he had done nothing wrong."<sup>62</sup>

Regardless of what drove Plummer to eschew an alias, he spent about a month exploring the diggings around Lewiston, and returned to the Luna House on August 23,

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<sup>61</sup> Allen, *Decent, Orderly Lynching*, p. 54. Pauley, *Henry Plummer*, p. 58, and Mather and Boswell, *Hanging the Sheriff*, p. 172-174, cite Sam P. Davis, ed. *History of Nevada* (Reno, Elms Publishing, 1913), p. 252-254.

<sup>62</sup> Allen, *Decent, Orderly Lynching*, p. 55.

1862. Another guest at the hotel in late August was a man named Pat Ford, a man Allen describes as "an itinerant dance hall proprietor... who followed the migrant miners with a tent supplying a band, liquor and a few girls who would dance for a fee."<sup>63</sup> Although accounts of the evening that Plummer, Reeves and Ridgley spent at Ford's dance hall are cloudy at best, what is clear is that it ended with the death of Pat Ford. What most likely occurred, according to newspaper accounts and later histories of the Idaho Territory, is that Ford requested that Plummer and his cohorts leave because their behavior was too boisterous.<sup>64</sup> Upon their departure, Ford fired eleven shots at the men, lodging two bullets in Ridgley's leg and another in Plummer's horse. Plummer, Reeves and Ridgley returned fire, one of their shots killing Ford.<sup>65</sup>

In the aftermath of Ford's death, Plummer and Reeves fled Lewiston. It is unclear where Plummer and Reeves were headed at first, perhaps to the newly-established diggings at Gold Creek near present-day Missoula, or even to Bannack. The two travelers encountered Granville and James Stuart on the road; Granville described the two in his diary as "two fine-looking young men... They rode two good horses and had another packed with their blankets and provisions... We liked their looks and told them that we were only going down to Hell Gate and would return to Gold Creek in a few days." During the visit, Granville mended Plummer's shotgun and the men all shared their stores of whiskey. The two left the company of the Granville brothers, and while Reeves headed to the Bannack diggings in the Beaverhead, Plummer headed to Fort Benton. Perhaps he

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<sup>63</sup> Ibid.

<sup>64</sup> *Sacramento Daily Union*, June 17, 1863.

<sup>65</sup> Allen, *Decent, Orderly Lynching*, p. 55. Cites Pauley, *Henry Plummer*, p. 106-107.

meant to make his way back to the East via steamboat; Fort Benton was the departure point for routes to St. Louis.<sup>66</sup>

Plummer arrived in Fort Benton in October, 1862, with a man by the name of Jack Cleveland; however, Cleveland was an alias. His real name was John Farnsworth, and he was among the convicts who escaped from the Nevada City jail during the incident in which Sheriff Wright was killed. It is unclear why the two were traveling together. Allen suggests that Cleveland happened upon Plummer while traveling, and believing rumors that Plummer had a secret cache of gold from his claims and gambling success, decided to follow him in hopes of uncovering such wealth. Whatever Cleveland's motivation, it is clear that he and Plummer were by no means on friendly terms; the complete duration of the men's relationship was plagued by conflict.<sup>67</sup>

By October, Fort Benton was shutting down for winter. Miners were no longer arriving by steamboat, and the next departure to St. Louis was not until the following spring. Both Plummer and Cleveland most likely wished to avoid passing the winter in the nearly-empty fort, and were seriously considering alternative options. James Vail, manager of the government's Indian farm on the Sun River, had arrived in Fort Benton searching for men to hire for the winter. Vail wanted to protect his family from Blackfoot raids during the winter months; Plummer and Cleveland agreed.<sup>68</sup>

The three men arrived in Sun River, sixty miles to the west of Fort Benton, a few days later. The Blackfeet did not attack the Sun River Farm during the following few months, which left its inhabitants with plenty of time to socialize. Vail's twenty year-old,

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<sup>66</sup> Allen, *Decent, Orderly Lynching*, p. 58. Cites Stuart, Granville, *Forty Years on the Frontier* (Glendale, California: A.H. Clark Co., 1967), p. 223.

<sup>67</sup> Allen, *Decent, Orderly Lynching*, p. 62. Mather and Boswell, *Gold Camp Desperadoes*, p. 109-110, p. 113.

<sup>68</sup> Allen, *Decent, Orderly Lynching*, p. 64. Cites the Francis Thompson Memoirs, originally published in *Massachusetts Magazine*, July and October 1913.

unmarried niece, Electa Bryan, caught the attention of both Plummer and Cleveland. Bryan returned Plummer's affection, and by early November, he had proposed. Bryan accepted. Since the threat of raids subsided, and supplies on the Sun River Farm were limited, Plummer and the Vails agreed that he and Cleveland would travel ahead to Bannack, and he would return for his fiancée in the spring.

### **Bannack**

Henry Plummer and Jack Cleveland settled in Bannack sometime around the middle of November 1862. Granville and James Stuart left Gold Creek for Bannack to open a butcher shop, and upon their arrival on the 22<sup>nd</sup> of November, discovered Plummer already comfortably settled into the town.<sup>69</sup> Plummer and Cleveland had parted ways, and multiple accounts described Cleveland as openly hostile towards his former traveling partner.

Unlike the previous winter, the season of 1862-1863 was relatively mild, and mining continued in fits and spurts until Christmas. Meanwhile, the town of Bannack grew rapidly; soon shops, saloons and hotels sprang up along the main street. Accounts of life in the earliest months of Bannack describe a typical mining town. Although for the most part, disputes were settled without resorting to violence, "It became the custom to go armed all the time."<sup>70</sup> As in most other gold camps, an ad hoc justice system was in force. Mostly, the miners court settled claim disputes, but in Bannack they also sanctioned the local butcher, Hank Crawford, to act as the town's sheriff.

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<sup>69</sup> Ibid, p. 70. Cites Stuart, Granville, *Forty Years on the Frontier*, p. 231-232.

<sup>70</sup> Allen, *Decent, Orderly Lynching*, p. 70. Quote from Stuart, Granville, *Forty Years on the Frontier*, p. 232.

For the most part, the prevalence of weapons tended to discourage physical conflicts; knowledge that an opponent was heavily armed frequently deterred escalation. However, violent encounters happened. The first murder on record in Bannack occurred in January of 1863.<sup>71</sup> George Evans departed from Bannack in search of some cattle. When he did not return within two days, a search party set out to hunt for Evans. They discovered a bloody bundle of clothes stuffed into a badger hole upstream from Bannack. Suspicion immediately fell on Cleveland. Dimsdale explains that Evans "it is believed, was shot by Cleveland, and robbed, as the murderer – who had no money at the time – was seen riding close to the place, and the next day he had plenty."<sup>72</sup> While this evidence was no more than circumstantial, it was enough to further damage Cleveland's reputation in Bannack.<sup>73</sup>

A few days later, alienated and belligerent, Cleveland began another altercation that ended in his demise. Henry Plummer frequented the Goodrich Hotel, one of the calmer and more sophisticated establishments in Bannack, and that is where Cleveland found him on the morning of January 14. The remembered version of the following events, while quite possibly embellished, is related consistently across texts. Cleveland burst into the Goodrich, berating a local man named Jeff Perkins, claiming that Perkins had not paid a debt owed to him from their earlier days in California. Plummer immediately came to Perkins' defense; he was able to convince Cleveland that Perkins had in fact repaid Cleveland, and seeing an opportunity to slip out and retrieve his own

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<sup>71</sup> Allen, *Decent, Orderly Lynching*, p. 73. Dimsdale claims that the murder occurred in February, *Vigilantes of Montana*, p. 25.

<sup>72</sup> Dimsdale, *Vigilantes of Montana*, p. 25.

<sup>73</sup> Granville Stuart expressed suspicion that Charles Reeves and William "Whiskey Bill" Graves had committed the murder. Stuart, *Forty Years on the Frontier*, p. 235. Mather and Boswell point out that "it was never known for certain whether Evans was murdered. One day he had disappeared, and later a nude body was found in the general vicinity, but the body was never identified as Evans." Mather and Boswell, *Hanging the Sheriff*, p. 26.

pistols, Perkins left the Goodrich. Soon Cleveland was again swearing and toying with his sidearm, boasting that he was not afraid of any man in Bannack. Plummer leapt to his feet, and drawing his pistol faced Cleveland and announced: "You son of a bitch, I'm tired of this." He fired one shot into the ceiling beam above Cleveland's head, and lodged a second into Cleveland's abdomen.<sup>74</sup>

Cleveland crumpled to the floor, and stared pleadingly up at Plummer. "You won't shoot me when I'm down, will you?" Cleveland begged.

"No. Get up," responded Plummer brusquely.

Cleveland obeyed, and as he was struggling to regain his footing, Plummer fired twice more, shooting Cleveland in the head and chest. Bystanders quickly escorted Plummer out of the Goodrich. Alone, he wandered down the snow-covered main street back to his cabin.<sup>75</sup>

Hank Crawford arrived at the Goodrich shortly after Plummer's departure, and as none of the other people on the scene was willing, he took the mortally-wounded Cleveland back to his butcher shop. He then went to Plummer's cabin to borrow some blankets. "What happened next," explains Allen, "has become a matter of dispute. By Crawford's account, he found Plummer in a highly agitated state, demanding to know whether Cleveland had said anything about him on his deathbed and threatening to go and finish the job of killing him if he had."<sup>76</sup> Plummer's inquiry struck fear into Crawford; if Plummer suspected that Cleveland had revealed some secret to Crawford on

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<sup>74</sup> Allen, *Decent, Orderly Lynching*, p. 74. Dimsdale, *Vigilantes of Montana*, p. 25, 26.

<sup>75</sup> Allen, *Decent, Orderly Lynching*, p. 75. Dimsdale, *Vigilantes of Montana*, p. 24. Mather and Boswell, *Hanging the Sheriff*, p. 26. Lew L. Callaway, *Montana's Righteous Hangmen: The Vigilantes in Action* (Norman: University of Oklahoma Press, 1982), p. 15. Hoffman Birney, *Vigilantes* (Philadelphia: Penn Publishing Company, 1929), p. 77-79.

<sup>76</sup> Allen, *Decent, Orderly Lynching*, p. 75-76.

his deathbed, the butcher might have been in danger. However, Plummer's reputation and past were no secret. His exploits in California were covered in detail by newspapers, and since many of the first miners in the Idaho Territories had come from California, most of them likely knew of Plummer's past. It seems unlikely that Cleveland held one piece of information that could have seriously jeopardized Plummer's social standing in Bannack.

Cleveland was not popular in Bannack, and this most likely contributed to the lack of clamor for justice. Prevalent belief that Cleveland had murdered Evans probably lessened sympathy for the dead man even further.

Crawford's fear of Plummer lingered, and he was often seen in the company of multiple armed friends. Moreover, Crawford knew that he was not nearly as good with a gun as Plummer. In order to prevent an unexpected attack, Crawford attempted to kill Plummer. One morning, from a semi-hidden location in a restaurant doorway, Crawford leveled his rifle at Plummer's back. He fired; the ball entered Plummer's right arm at the elbow, and, shattering both radius and ulna, lodged within Plummer's wrist. According to eyewitness Edwin Purple's account, Plummer spun on his heel, and shouted at Crawford, daring him to finish the job. Crawford took a second shot, but missed.<sup>77</sup> After the failure of his cowardly attempt at sniping Plummer, Crawford fled Bannack.

Not surprisingly, Plummer's shattered arm swelled rapidly, and he developed high fever. A local doctor encouraged Plummer to allow him to amputate, but Plummer refused. The doctor claimed that under threats from Plummer's comrades, he honored the injured man's wishes and surgically removed the bone fragments that he could. He was

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<sup>77</sup> Allen, *Decent, Orderly Lynching*, p. 83. Edwin Purple, *Perilous Passage: A Narrative of the Montana Gold Rush, 1862-1863* (Helena: Montana Historical Society Press, 1995), p. 156.

unable to locate the ball in Plummer's wrist, and left it among the joint bones. A few days later, Plummer's fever broke and against all odds, he recovered.<sup>78</sup>

With the return of spring came the return of placer mining on Grasshopper Creek. Again, miners and merchants began traveling the roads around Bannack and Virginia City with gold dust and currency. Along with the increase in traffic came renewed fear of highway robberies. "The actual number of such encounters was impossible to tally, given the remote locations and confuse accounts of the victims, and it may be that the perception of the danger was greater than the reality," explains Allen.<sup>79</sup> With the exception of a handful of barroom scuffles and one or two highway holdups, the late spring and summer of 1863 passed relatively peacefully in the Beaverhead region.

On March 3, 1863, Congress officially created the Idaho Territory, although it adjourned before appropriating any funds to develop a new government, including provisions regarding justice systems or even a capital. With no indications of progress by the territorial government, citizens of Bannack decided it best to hold local elections in order to fill some important official positions. At the time, Walter Dance was acting as the president of the mining district, and oversaw the miners' court. At a meeting with approximately one hundred and fifty other community members, Dance agreed that elections would be held three days later to select a judge, sheriff and coroner. Dance attempted to make the election seem as formal and official as possible, "Dance assigned polling monitors and official counters to tally the paper ballots."<sup>80</sup>

Plummer immediately announced his candidacy for sheriff; after an intense few days of campaigning, he easily defeated his opponent, Jefferson Durley, with a clear

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<sup>78</sup> Allen, *Decent, Orderly Lynching*, p. 84.

<sup>79</sup> *Ibid*, p. 87.

<sup>80</sup> *Ibid*, p. 88.

majority of the 554 cast ballots. Two days after his election, on May 26, Plummer set off on his return journey to Sun River to marry Electa Bryan and bring her back to Bannack. Before his departure, Plummer appointed D.H. Dillingham as his chief deputy, and Ned Ray, Buck Stinson and Jack Gallagher as his other deputies. All of these men had reputations for quick tempers and "handiness with fists and pistols." Though it is not altogether clear why Plummer would select men with such records and limited popularity in town, it seems that since his own shooting arm was not yet fully functional, he wanted men who would command respect and be capable of defending him.<sup>81</sup>

With the arrival of Governor William H. Wallace in Lewiston in July, 1863, individual political ambitions emerged in Bannack and Virginia City. Wallace had no interest in maintaining his position as governor of the Idaho Territory – both because of the rural nature of Lewiston and the job's relatively low salary – and quickly enlisted the territory's federal marshal, Dolphus Payne, to assist him in a survey of the region's mining communities. Both men were staunch Republicans, and during their census recruited loyal party members as candidates for newly-established offices; the race had begun, and Republicans like Nathaniel Langford, Sidney Edgerton and Wilbur Sanders set their sights on public office.<sup>82</sup>

As the summer of 1863 wore on, Plummer carried out his job as sheriff in Bannack. In August, a miner by the name of Peter Horen shot his mining partner, Lawrence Keeley. Plummer arrested Horen, and when a miners' court found Horen guilty of murder, Plummer constructed a scaffold in the dusty draw to the east of Bannack. On August 25, Plummer presided over the execution.

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<sup>81</sup> Allen, *Decent, Orderly Lynching*, p. 104-108.

<sup>82</sup> *Ibid*, p. 115-116.

Recollections of Plummer during the early fall of 1863 are a mixture of suspicions and interpretations. Perhaps the one fact from these months that is not tempered by vigilante propaganda is that Electa, Plummer's wife, left Bannack. The Vails, Electa's aunt and uncle, had since moved to Bannack as well. Her motives were unclear, but on the morning of September 2, she climbed aboard a stagecoach bound for Salt Lake City. Electa's friend, Francis Thompson, claims that she confided in him that her husband's long working hours left her lonely, and she wished to move to Iowa near some extended family. Her husband, she explained, planned to join her in the fall.<sup>83</sup> Electa's departure provided more grist for the rumor mill that had already begun to generate suspicions about Plummer's integrity.

Meanwhile, in Washington, D.C., President Lincoln recognized the need to establish a justice system, and appointed former Ohio congressman Sidney Edgerton as chief justice of the Supreme Court of the Idaho Territory. In early June of 1863, the Edgerton family left Ohio for the Idaho Territory. Edgerton, a Republican, vehemently opposed slavery and believed that Southerners were radical and pugnacious.<sup>84</sup> The overland journey to Lewiston took longer than the Edgertons had anticipated, and weather forced them to winter in Bannack before proceeding on to Lewiston. On September 22, a fortnight after Electa Plummer's departure, Sidney Edgerton purchased a cabin in Bannack.

Since his wife's departure, Plummer had sold his stock in a local claim. He also sold his cabin to the Vails, Electa's extended family, although he did not depart Bannack; he remained as a boarder in his cabin, and maintained his position as sheriff. Rumors continued to swirl around, and the Republican businessmen in Bannack and Virginia City

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<sup>83</sup> Allen, *Decent, Orderly Lynching*, p. 121.

<sup>84</sup> *Ibid*, p.125.

began to establish themselves as the local elite. Men like Edgerton, his lawyer nephew Wilbur Sanders, newspaperman Thomas Dimsdale and businessman Nathaniel Langford found that they had complementary interests; together, as local elites, they wanted to pressure the Republican federal government to divide the Idaho Territory and create a new territory to the east of the Bitterroot Mountains. When this new territory was formed, they would be the foremost candidates for high-ranking offices.<sup>85</sup>

According to Granville Stuart's diary, on October 25, 1863, highwaymen held up a Peabody & Caldwell stagecoach bound from Virginia City to Bannack. Stuart recorded that one of the stagecoach's passengers, Dan McFadden, lost \$2500 in the holdup, but the robbers took no lives. While this was the first substantiated highway robbery in the area, rumors continued to circulate regarding robbers and Plummer's potential involvement. Perhaps suspicions were exacerbated by the unusual reaction to the holdup; Granville Stuart noted in his diary, "So far as I can learn no steps have been taken to discover who the robbers are or to punish them."<sup>86</sup> Stuart was clearly not the only citizen of the region suspicious at the sheriff's lack of response to the robbery.

Henry Tilden was a fifteen year-old boy who had arrived with the Edgerton family in Bannack in late September. One snowy November evening, shortly after the robbery of the stagecoach, Tilden rode out to retrieve a cow lost in a field south of town. Unable to find the missing animal, he started back toward town. A few minutes later, Tilden returned home badly shaken, bruised and scraped from a tumble from his horse.

Tilden claimed that on his return to town, the gang of highwaymen held him up at gunpoint. Upon convincing the robbers that he had no money, they released him. He spurred his horse into a fierce gallop, and when it leapt a shallow gully, he tumbled to the

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<sup>85</sup> Allen, *Decent, Orderly Lynching*, p. 125, 134.

<sup>86</sup> Stuart, *Forty Years on the Frontier*, p. 151.

ground. Quickly regaining his senses, he climbed back onto his horse and bolted to the home of Hattie Sanders, the daughter-in-law of Sidney Edgerton. When she heard his story, she immediately called Edgerton, and Tilden repeated his story. He told Edgerton that he had recognized one of the robbers; the sheriff, he claimed, was among the men that held him up. The boy claimed to have recognized Plummer's pistol and the red lining of his long riding coat during the holdup.<sup>87</sup>

Tilden's story, while it added ammunition to the Republican elites' case against Plummer, was most likely a fabrication. If there was a gang of robbers, it is highly illogical that with the volume of loaded stagecoach traffic on the road between Bannack and Virginia City that they would elect to rob a boy like Tilden. Moreover, robbing a victim so near to town carried a serious risk of discovery and arrest. If the robbery actually did occur, the chances of Tilden being able to see – through the snow and darkness – the lining of one of the robber's coats is extremely slim. In short, Tilden's evidence against Plummer was plagued with problems.

A couple of weeks later, around Thanksgiving, another stagecoach fell victim to highwaymen. A miner named Leroy Southmayd was traveling from Virginia City to Salt Lake city via Bannack. Southmayd claimed that he, too, recognized his assailants; despite masks on men and horses, the gunmen were George Ives, "Whiskey Bill" Graves and Bob Zachary.<sup>88</sup> This robbery was not the first act of banditry of which George Ives was accused, nor would it be the last.

Early in December, William "Old Man" Clark sent his young German employee Nicholas Tiebolt to fetch a pair of mules from a ranch on the Stinkingwater River. The

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<sup>87</sup> Allen, *Decent, Orderly Lynching*, p. 148, p. 224. Dimsdale, *Vigilantes of Montana*, p. 47.

<sup>88</sup> Allen, *Decent, Orderly Lynching*, p. 155. Dimsdale, *Vigilantes of Montana*, p. 63-66.

boy rode to the ranch owned by George Ives and purchased the animals. He never returned to his employer. A few days later, hunter William Palmer found a frozen, naked body in the foothills outside of Virginia City. When he brought the mangled corpse to town, townspeople immediately recognized it was Tiebolt. Clark and another man rode out to Ives' ranch and arrested Ives.

On the morning of December 19, 1863, the trial of George Ives began. Ives, a wealthy man, was enlisting local lawyers to speak in his defense. Wilbur Sanders, nephew of Sidney Edgerton, took up the task of prosecuting Ives for Tiebolt's murder. Locals dragged some large, flat wagons into town, and atop these platforms, the trial unfolded. Determined that Ives should not go free, Sanders convinced the jury of miners as well as the crowd that Ives was guilty of butchering Tiebolt. To the end, Ives maintained that he was innocent.

Hearing the verdict of guilty, the crowd dragged Ives to an unfinished building, tossed a rope across a beam, and strung it about Ives' neck. He begged for time; he wanted to write a final letter to his mother. X. Beidler – a fervent Republican with a penchant for violence since his involvement in events in Bleeding Kansas – shouted, "Ask him how long he gave the Dutchman!" With that, the mob proceeded with the hanging. Ives final words were, "Alec Carter killed the Dutchman."<sup>89</sup>

Although the crowd went through with Ives' execution, it became obvious that they believed his dying accusation. His parting sentence was enough to whip the crowd into a frenzy; immediately, men of Virginia City mounted a posse and rode out to apprehend Alec Carter for the murder of Nicholas Tiebolt. A handful of men faithful to

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<sup>89</sup> Mather and Boswell, *Vigilante Victims*, p. 9. Dimsdale, *Vigilantes of Montana*, p. 86. Sanders and Berstche, *X. Beidler: Vigilante*, (Norman: University of Oklahoma Press, 1957), p. 72, 76.

Wilbur Sanders had already discussed the potential use of a vigilance committee, like the one that had proved effective in San Francisco. In response to Ives' accusation, William "Old Man" Clark revived the posse that had retrieved the prisoner.

Two days before Christmas, the posse, before departing to hunt down Carter, convinced Sanders to create a document authorizing it:

We the undersigned uniting ourselves in a party for the laudable purpos  
of arresting thieves & murderers & recovering stollen property do pledge  
ourselves upon our sacred honor each to all others & solemnly swear  
that we will reveal no secrets, violate no laws of right & never desert  
each other or our standard of justice so help us God as witness our hand  
& seal this 23 of December AD 1863.<sup>90</sup>

While these two dozen men, including Williams and a few others who were part of the original party to retrieve Ives, rode out to find Carter, the other group – Allen refers to them as the "elders" – remained in Virginia City. They too drew up documents governing how the vigilantes would behave. As Allen summarizes: "a full, formal... set of regulations and by-laws that created a vigilance committee, provided for the selection of its officers, and outlined its mission." He continues, "It would operate in secret. There would be no means of appealing its decisions... 'The only punishment that shall be inflicted by this Committee is DEATH.'"<sup>91</sup>

Death is precisely the medium in which the vigilantes dealt. In their search for Alex Carter, they encountered another marginalized local man, Erastus "Red" Yeager. They threatened to hang him immediately if he did not cooperate. According to the

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<sup>90</sup> Document submitted to the Montana Historical Society by John Lott in 1900. Published in the *Madison County Monitor*, March 2, 1900.

<sup>91</sup> Allen, *Decent, Orderly Lynching*, p. 197. Capitalization included in the original document.

vigilantes, in hopes of prolonging his life, Yeager provided a list of all members of the highly-organized Road Agent Gang that plagued the roads. Yeager was, according to his captors, extremely forthcoming with information; not only did he reveal names, but also that the gang members identified one another with a password – "I am innocent" – and with a certain sailor's knot in which they tied their scarves. Despite his cooperation, the vigilantes hung him and his companion, George Brown, from a cottonwood tree. The vigilantes pinned hand-drawn signs to the backs of each dangling corpse. One read "Red! Road Agent and Messenger," and the other, "Brown! Corresponding Secretary."<sup>92</sup>

Based on this list, the vigilantes, directed by the "elders" including Wilbur Sanders and his Republican acquaintances, began their reign over the Beaverhead region. Six days later, the vigilantes hanged their third victim: the sheriff, Henry Plummer.

On the night of January 10, 1864, the vigilantes pounded on the door of the Vail's cabin. A crowd of 50 to 75 men surrounded the small house. Plummer made efforts to calm his sister-in-law, Mrs. Vail, telling her that he had some business regarding "Dutch John" Wagner. Once outside, the mob bound his hands, and forcibly escorted him across the bridge and toward the gallows that he had built only three months prior. The vigilantes had also apprehended Buck Stinson and Ned Ray, Plummer's deputies.

The hangmen lifted Ray first, and looped the noose around his neck. The men bearing his weight let him drop, but his neck did not break. Dimsdale claims that Ray's hands were not bound tightly enough, and he was able to slide a finger between his throat and the rope, prolonging his asphyxiation. Stinson was hanged next, and his death was mercifully quick. Finally, the mob slid the noose over Plummer's head. With his final

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<sup>92</sup> Ibid, p. 215. Dimsdale, *Vigilantes of Montana*, p. 99-100.

breath, he asked the vigilantes for a "good drop." The mob obliged, and the young sheriff died instantly.<sup>93</sup>

The vigilantes went on to hang 18 more men. These 21 hanged men were all between the ages of 21 and 45. While half of them had careers with grooming, raising or boarding horses, the other half were saloonkeepers, bartenders or lawmen. As Mather and Boswell observe, "The twenty-one victims of the vigilantes had several interesting commonalities: more than three-fourths had arrived in the area from 'the other side' of the mountain, had personal enemies among the vigilante leaders, and had never taken a human life. Of the nine who took an interest in politics, literally all were Democrats. And at the time of their capture, nearly half were either sick, wounded or crippled."<sup>94</sup>

The notion of an organized road agent gang was not unique to Montana. "Due to dangers inherent in transporting gold dust from the mines, myths of robber gangs were prolific in the West," explain Mather and Boswell. They cite examples in California, Oregon, Washington, Colorado, Nevada and Idaho. One county in California "preserved tales about 'a band of cut-throats and highway robbers that numbered several hundred, and who pillaged the State... [and had a] regular code of signals, signs and passwords by which they made themselves known to each other whenever they met.'"<sup>95</sup> This example bears haunting resemblance to the version of events in Montana as explained by pro-vigilante storytellers.

Historians Mather and Boswell point out another interesting statistic from Bannack and Virginia City; there were only three profitable robberies in the area, and "there is no evidence that the perpetrators of these three crimes worked together."

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<sup>93</sup> Dimsdale, *Vigilantes of Montana*, p. 111.

<sup>94</sup> Mather and Boswell, *Vigilante Victims*, p. 161.

<sup>95</sup> Mather and Boswell, *Vigilante Victims*, p. 162.

Between two stagecoach holdups and the murder of Nicholas Tiebolt, the alleged gang would have profited by \$3,500. Divided evenly, each member would have pocketed just over \$23, a pathetic payoff for the amount of effort required to organize and maintain such a complicated network of spies and thieves. Moreover, in such a small community, why would the gang require secret codes and scarves to identify one another? "The vigilantes, who never once encountered any organized opposition, seemed to have projected a mirror image of their own organization onto a supposed enemy."<sup>96</sup>

In short, the vigilante episode of 1863-1864 is riddled with questions of motive and transparency, and over the course of the following 150 years, authors, social scientists and historians have addressed these problems differently. An examination of which elements are preserved or challenged in different iterations yields significant insight into the storytellers and their social and cultural contexts.

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<sup>96</sup> Mather and Boswell, *Vigilante Victims*, p. 164-165.

## Chapter II – Writing Memory

Not only is it impossible to know the truths of guilt and innocence in the case of Henry Plummer, but it is somewhat irrelevant; the fact that there is a chance that he was not a terrible villain means that to remember him as such is a deliberate choice. Moreover, this choice is not arbitrary. The deliberate decision to remember one specific version of the story offers insight into the listeners as well as the storytellers.

While many Montana campfires have been venues for remembering the sinister sheriff of Bannack, the road agents and vigilantes of Montana in the mid-1860s are not merely the stuff of spooky stories; they have populated widely-accepted versions of regional mythology for well over a century. Even as the events unfolded in Bannack and Virginia City, local observers were writing and rewriting the story of the vigilantes. Since then, numerous iterations of the vigilante story have been penned, most of which embrace the campfire version, at least to some extent. Clearly, these events were not a simplistic John Wayne version of the Wild West, but rather featured a complicated web of personalities, ambitions, manipulations, ulterior motives, coercion, and murder. More recently, texts on the vigilantes have attempted to embrace this nuanced understanding and explanation of the explosion of violence in the 1860s, and even though the truth is arguably more fascinating than the "heroes and villains" interpretation, the campfire version has endured. The historical interpretations of this episode have changed over time, but the mythology lingers; this chapter seeks to explore the path that the historical memory of the road agents and vigilantes has traveled.

The phases through which this story has developed can be explained by the social context of the America in which they were told. The earliest phase of the literature on the

subject applauded the bold actions taken by the vigilantes, and since it was written, for the most part, by socially elite local witnesses, it was characterized by extreme bias in favor of the vigilantes. The second phase, which emerged in the mid- 20<sup>th</sup> century, began to challenge the earlier unquestioning support of the vigilantes, and met resistance from groups that embraced new conceptualizations of violence and human rights. The third and current phase of the literature is openly critical of the vigilantes and their extralegal behavior, and seeks to capture fully the complicated nature of the social context in which the episode occurred. By contextualizing the phases of vigilante literature in a wider history of violence in America, this chapter argues that the major shift away from unexamined support of the Montana vigilantes can be explained by the changing nature of American violence in the 1960s and 1970s. Specifically, violent race riots and American involvement in Vietnam led many Americans, especially liberals, to question seriously the relationship of authority and violence, which drove a reinterpretation of the vigilantes' behavior. The changing interpretation of the Montana road agents and vigilantes thus tracks many other re-evaluations of Western history in the past half-century.

While Thomas Dimsdale's newspaper articles in the Montana Post appeared during the vigilante episode, his book, *The Vigilantes of Montana*, was not the first published on the subject. The earliest monograph engaging the execution of the road agents and Henry Plummer was of unknown authorship: *Banditti of the Rocky Mountains*, first published in 1865, approximately a year after the lynching of Plummer. "The object of this compilation is not to give a full account of all the numerous murders and robberies that have been perpetrated in Idaho, by banditti infesting that territory," explained *Banditti's* author. "Hence, the reader will be content with perusing such facts as are

connected with some of the most shocking murders committed by this lawless band, with an authentic biography of its captain, Plummer, and other notorious characters connected with the gang." After a largely unsubstantiated and incorrect description of Plummer's family lineage, youth and years in California, *Banditti* depicted the deplorable acts of horsetheives and supposed road agents. Finally, after "months of pillage and outrage," the insecurity weighed too heavily on the townsfolk, "and all felt the necessity of union in action, upon the part of the law and order portion of the community." The organization of good citizens that secretly assembled themselves prepared to investigate the road agent gang and destroy it. *Banditti* concluded on a note of pride, righteousness, and assurance to the reader that "the people now rejoice that this band of cutthroats is broken up, and that the millennium of devils has passed away forever, from the fair valleys, and mountain retreats of Idaho and Montana, before the light of civilization..." Almost religious in tone, this conclusion characterized the vigilantes as heroic civilizers, casting out the dark and uncivil elements in order to tame the territory.<sup>97</sup>

Shortly after the publication of *Banditti*, Professor Thomas J. Dimsdale compiled his previously-serialized newspaper articles into a book: *The Vigilantes of Montana*. Dimsdale, "a well-educated Englishman," departed from Britain and arrived in Virginia City in 1863. Like Plummer, Dimsdale suffered from consumption, and sought the drier mountain climes. "During the winter of 1863-1864 he taught a private school," and his contemporaries characterized him as cultured and gentle. Governor Edgerton appointed Dimsdale first superintendent of public instruction, and Dimsdale also acted as the first

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<sup>97</sup> Anonymous. Peitler, Jerome ed. *Banditti of the Rocky Mountains and Vigilance Committee in Idaho: An Authentic Record of Startling Adventures in the Gold Mines of Idaho*. Minneapolis: Ross and Haines, Inc., 1964 (reprinting).

editor of the Montana Post. The assembled articles from this newspaper supplied Dimsdale's fuller account of the vigilantes' actions.

As Dimsdale expressed in the text's preface, the reasons for compiling and publishing the book for "the public is twofold... in the first place, to furnish a correct history of an organization administering justice without the sanction of constitutional law; and secondly, to prove not only the necessity for their action, but the equity of their proceedings." The text was laden with social observation and theory, delineating the debauchery of uncivilized mining camps and the necessity for civilizing forces to tame them. The Vigilance Committee's cause, he contended, was to "render impartial justice to friend and foe, without regard to clime, creed, race, or politics." Moreover, it looked forward to the day when it could disassemble their organization and see it replaced by established systems of justice. Whereas *Banditti* explained the relationship of the vigilantes and the road agents as a somewhat two-dimensional exchange of good vanquishing evil, Dimsdale sought to base the morality tale in context of anticipation of civilization and social theory. Through flowery prose, quotations from Shakespeare, and a dramatic presentation of events, Dimsdale traced the heroic actions of the decent men of Virginia City and Bannack against the road agent band.<sup>98</sup>

Although Dimsdale was in Virginia City, and very likely attended a significant number of relevant events and had access to important sources of information, his text was by no means an accurate or even-handed account of the episode. Dimsdale openly admitted to "intimate acquaintance with the parties cognizant of the facts related," which succinctly characterized the biased perspective of *Vigilantes of Montana*.<sup>99</sup>

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<sup>98</sup> Dimsdale, *Vigilantes of Montana*, p. 3, E. Degoyler's Introduction, ix, and p. 15.

<sup>99</sup> Dimsdale, *Vigilantes of Montana*, p. 3. Perhaps Thomas Dimsdale thought that his town truly was safer with the presence of the vigilantes, but more likely, the committee

Nearly 30 years later, another man present in Bannack during the vigilante episode published a book on the subject. Nathaniel P. Langford hailed from Westmoreland, New York, and at the age of 30 went west as second assistant to Captain James L. Fisk. Fisk's mission was to construct a wagon road to Fort Benton. In 1864, Langford assumed the office of tax collector for the Internal Revenue Service. Despite President Johnson's attempts to remove him from this office, the Senate decreed that he should remain in it. After failed efforts to become the third governor of the Montana Territory, Langford instead accepted the responsibility of the first superintendent of Yellowstone National Park. At the time of his death in 1911, Langford was grand master of the Montana Masons.<sup>100</sup>

Langford's book, *Vigilante Days and Ways*, published in 1890, is fairly similar to Dimsdale's in both content and perspective. While he did not make the same effort to insert himself into the deliberate process of writing the text, he did not hesitate to describe events in the first person. He recalled life in Bannack circa 1864 as a veritable "carnival of crime. Scarcely a day passed unsignalized by outrage or murder. The numerous tenants of the little grave-yard had all died by violence. People walked the streets in fear." The vigilantes were born out of the situation's necessity, and their "prompt and decisive measures... brought peace and security to the people." Moreover, Langford seemed to have heard some disapproval of the vigilantes behavior, which he

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was comprised of his friends. Assuming a friendly relationship between Dimsdale and vigilante informers, not only would the information that he received be biased and unsubstantiated, but his interpretation would tend to be so as well. Dimsdale was a close friend of Wilbur Sanders, a man known to have been actively involved with the vigilantes. Moreover, Sanders and his uncle, Chief Justice Sidney Edgerton, shared a strong dislike of Henry Plummer. This tension is impossible to fully source, but personal political ambitions as well as Civil War sympathies undoubtedly affected the bitter nature of the relationship.

<sup>100</sup> Nathaniel Pitt Langford, *Vigilante Days and Ways* (New York: Oxford University Press, 1957), Dorothy M. Johnson's introduction, xxiv.

described as coming from the "people of many of the older communities where the hand of the law was strong," and therefore had no need for brave civilians to step up. He challenged them to "discover any milder or more efficacious substitute," and held his book up as a definite answer to those few critics. "Too much credit can never be awarded to the brave and noble men," Langford asserted. He wholeheartedly supported the vigilantes' actions, and appreciated their successful efforts at removing the sinister criminal element from Bannack and Virginia City.<sup>101</sup>

Langford's text actually relied very heavily on relating many conversations and on descriptions of decisions and events that unfolded at which he could not have been present. Moreover, had he been present for a conversation thirty years prior, the chances of his memory being preserved in an accurate or even relatively objective fashion dwindle significantly.

To account for the biases of Dimsdale and Langford, there exists another layer of explanation for vigilante activity beyond physical safety or relationships. Richard Maxwell Brown, expert on the history of American traditions of violence, explains that the "goal of vigilantism has characteristically been a conservative one: the perpetuation of established patterns of local community life, especially in newly peopled frontier areas where crime and disorder loom as a threat to honest, upright persons and their idealistic concepts of life and property." In other words, the aim of this brand of vigilante action is to preserve the status quo of the traditional American community and to protect it from unsavory influences. "Moreover, vigilante movements have usually been led by the element of the local community with the greatest stake in the social status quo upheld by vigilantism: the elite group of leading businessmen, planters, and professionals,"

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<sup>101</sup> Langford, *Vigilante Days and Ways*, p. 101, p. 444.

precisely the category into which both Dimsdale, the teacher and newspaperman, and Langford, the tax collector and ambitious politician, fit. As members of the elite class in Virginia City and Bannack, both men were more interested in keeping the social stratifications of emergent civilization intact, and that meant removing the threat of the troublemakers. It remains unclear how much of a direct hand either man had in the actual violence, but it is apparent that they both held a vested interest in preserving their own status, and were therefore in support of the men actively removing the threatening individuals from the society.<sup>102</sup>

The next authors to pick up the topic of the Montana vigilantes, unlike Dimsdale and Langford, were not present in the region during the episode. Despite this, their attitude towards the vigilantes remains very much the same. In 1929 Hoffman Birney published *Vigilantes: The Rise and Fall of the Plummer Gang of Outlaws in and about Virginia City Montana in the Early 60's*, which chronicled the same events covered by the earlier texts. Birney prefaced his text with acknowledgement that many of the precise details of the story had been irretrievably lost over time, and he even displayed moments of gentle criticism against Dimsdale's and Langford's accounts of the episode, although his critiques are more detail-oriented than thematic. Despite these caveats, Birney repeated the same story with the same groups playing the roles of heroes and villains. Although he did not make any definitive statements regarding Henry Plummer's background, he did not hesitate to claim that once plenty of gold had been found in Bannack and the stage lines were running with some semblance of regularity, "Plummer, Sheriff of Bannack, threw aside the garments of respectability that fitted him so poorly and definitely cast his lot with that of the Wild Bunch." Birney goes on to describe the

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<sup>102</sup> Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York: Oxford University Press, 1975), p. 93.

fraternity of evil that was the road agent gang: "Each member subscribed to an oath of secrecy and fidelity" to the gang, and they even "adopted a password – 'Innocents' or 'I am innocent'..." Just as he characterized the supposed gang as populated with villains, he unquestioningly supported the vigilantes' actions. "The Vigilantes of Montana require no apologia. A distasteful, grim, but necessary task had to be done. They did it and did it well," he concluded firmly.<sup>103</sup>

Birney, unlike Dimsdale and Langford, was not present for the vigilante episode, and therefore his interpretation cannot be attributed to the same causes. His personal safety had never been in the hands of these vigilantes, and he did not represent Bannack or Virginia City's elite seeking to maintain the social status quo. Hoffman Birney was born in Pennsylvania in 1891, and following his father, enlisted in the United States Army. He wrote exclusively for a popular audience; before publication as a book, *Vigilantes* appeared in the Saturday Evening Post. Birney wrote multiple pieces under the pseudonym of David Kent, and these other works demonstrate a similar pattern of serialization of loosely-historical stories in popular periodicals prior to publication as books. Although Birney based his material on kernels of historical fact, his stories were highly embellished for dramatic effect. There is no evidence that Birney spent any significant periods of time in the West or had any personal connections to the incidents in Virginia City. How, then, can his interpretation be contextualized and explained?<sup>104</sup>

First, more than sixty years after the hangings, the events had already been ossified into deeply-accepted regional mythology. In the minds of Montana's residents,

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<sup>103</sup> Birney, *Vigilantes* (Philadelphia: Penn Publishing Company, 1929), p.124-125, p. 126. For criticism against Dimsdale, see foreword, p. 12, against Langford, see p. 61.

<sup>104</sup> Arlington National Cemetery, "Herman Hoffman Birney: Captain, Medical Officer, United States Army," <http://www.arlingtoncemetery.net/hhborney.htm> (accessed May 2, 2009).

this encounter was a piece of their creation myth; as they embodied valued characteristics of bravery, strength, and fairness, vigilantes were the local Lancelots and Galahads. The established nature of the myth did not inherently invite a critical re-examination, and there was no outside social or cultural pressure to create one. The First World War and subsequent Red Scare – only a few years prior to the publication of Birney's text – saw a high cultural value placed on citizen policing and vigilantism in America.

According to Christopher Capozzola, a historian at the Massachusetts Institute of Technology, the "era of World War I marked the high point in one kind of political violence in American history, as the actions of... private organizations and spontaneous crowds left more than seventy Americans dead and thousands terrorized by tar, flame, or the noose." While the Wilson administration openly condemned mob violence, it openly encouraged citizens to fulfill their civic duty through membership in vigilance organizations. Whereas vigilantism is "fundamentally about law," Capozzola explains, vigilance – as opposed to the inherent violence of vigilantism – was typically defined by a deliberate awareness of one's community in order to discourage morally questionable elements like prostitution, gambling, or other small-scale crime. However, American entrance into the World War upped the stakes. "Wartime calls for citizen vigilance raised the demand for volunteer policing; wartime rhetoric and fears of subversion heightened its significance." Capozzola explains that "during the war, Americans policed their fellow citizens as part of a culture of obligation that pervaded nearly every facet of national life." Vigilance became the obligation of every good American, defending the home front during the war and protecting one's own community from vice.<sup>105</sup>

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<sup>105</sup> Christopher Capozzola, *Uncle Sam Wants You: World War I and the Making of the Modern American Citizen* (New York: Oxford University Press, 2008), p. 117, 119, 123, and 143.

It is clear, then, why this social and cultural context would not encourage a revisionist analysis of the Montana vigilante episode of the 1860s. However, soon after the middle of the 20<sup>th</sup> century, interpretations of the story began to change. Criticism of previous work engages not only questionably-accurate details, but also challenges traditional perspectives on the overarching themes embodied by the episode. The point at which these changes begin to appear is not arbitrary, nor is it due to the discovery of some new documents or resources. Rather, like the thematic consistency observed in the aftermath of World War I, the advent of these shifts correlates to prominent trends of American culture, society, and violence.

In 1955, Rosa Parks sat in the whites-only section of a Montgomery, Alabama, bus. While this moment in the history of the United States seems that it could not be any further from the story of Henry Plummer nearly one hundred years earlier, one must remember that her civil disobedience marked a turning point in race relations in America. The next handful of years was marked by an exponential increase in civil disobedience, protests, and riots, all of which were captured by news cameras. Opponents to integration torched busses and beat, jailed, and even killed African Americans and their white supporters for challenging the segregated status quo. During the late 1950s and the early 1960s, many conservative Americans resisted the changes that the Civil Rights Movement urged, but at the same time, many liberals and intellectuals helped sound the call for change. Concerns about individual rights became more prevalent around the world and in American culture, and people began to question the legitimacy of violence when wielded by the state or by private citizens on either side of the divide.

These questions of rights and use of force began to give a few the tools with which to reinterpret the vigilante episode, but by the same token, drove the more

conservative groups back towards reaffirmation of the status quo. Therefore, during the late 1950s and early 1960s, the earliest development of a new camp became apparent against the backdrop of the good-guy-vanquishing-evil version of the story.

In 1957, University of California history professor John W. Caughey published an essay titled "Their Majesties the Mob", which compared historical vigilante episodes with then-rampant Cold War communist paranoia. Although the bulk of Caughey's examples of vigilantism stemmed from California, he acknowledged that episodes occurred across the West. Caughey openly compared frontier vigilantism to 1950s conflicts: citing recent race riots, Caughey noted "the resort to mob violence is by no means a southern monopoly," and was not "confined to issues of race relations." He observed "The impulse to go beyond the law also characterizes most phases of McCarthyism." After a careful description and definition of vigilantism, Caughey applied the most salient characteristics to events of the 1950s. He recognized that then-modern vigilantes worked outside of the framework of established justice systems and also held "trials," in which the defendants were considered guilty until proven innocent. Caughey also addressed the overwhelmingly pro-vigilante bias of previous texts. "A few historians have taken a more guarded position, either by being noncommittal or by noting the gains and losses for society and letting it go at that." Caughey ventured to claim that the "public memory that glorifies this part of pioneer heritage" actually encouraged extralegal justice in the 1950s.<sup>106</sup>

In his conclusion, Caughey applied the lessons of an emerging anti-vigilante interpretation to the mid-20<sup>th</sup> century.

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<sup>106</sup> John W. Caughey, "Their Majesties the Mob," *Pacific Historical Review*, Vol. 26, No. 3 (August, 1957): p. 218, 219, 230, 234. Caughey later compiled a series of articles on 20<sup>th</sup> century extralegal violence in America into a book of the same title, which was published by the University of Chicago Press in 1960.

In the fullness of time modern vigilantism will also be evaluated. For the part of it that expresses race hatred, the augury seems unfavorable. The documentation in its current report and comment is mostly adverse, and these will be the principal materials for future generations of researchers... The aspect of heroism, furthermore, is emphatically not with those who would push down the already downtrodden or who terrorize children who are doing no more than their patriotic duty in seeking an education.

Caughey indicated that the events of the 1950s would demand a departure from previous support of vigilante action and likewise, provide material for a necessary reinterpretation of earlier episodes. These reinterpretations did not take long to appear.<sup>107</sup>

In his 1958 article, "Afterthoughts on the Vigilantes," John Welling Smurr, professor of history at Montana State University, explored whether authors such as Dimsdale and Langford exaggerated the regional support for the vigilantes. Smurr proposed to "examine certain things which they [Dimsdale and Langford] either mentioned with reluctance or not at all with a view of finding the answer to two questions: Was the Vigilante movement universally popular in Montana; and if not, why not?" Smurr claimed that in Langford's case, his efforts to justify the vigilantes' actions would not be necessary if there existed no dissent. Moreover, Smurr claimed that Dimsdale skipped some instances of vigilante action wholesale, and ascribed this selectivity to a desire to "whitewash" the account. Smurr also suggested that the super-secretive behavior of the vigilantes themselves could indicate a faction of locals who disagreed with their actions. Based on these pieces of evidence and examples, Smurr concluded that "a goodly number of Montana citizens did not approve," and even suggested that national-scale Civil War politics or Masonic membership may have been a divisive factor in these communities. Smurr's article represented an important shift in

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<sup>107</sup> Caughey, "Their Majesties the Mob," p. 232.

Montana vigilante literature; for the first time, a historian was not only questioning the reliability of the earliest authors in terms of details, but also attempting to examine what their efforts at justification, and similarly, what their omissions, indicated about the actual social context in which these events unfolded.<sup>108</sup>

During the middle decades of the 20th century, and in the face of new breeds of violence, Americans were forced to examine their own conceptualizations of rights and justice. Smurr penned his new analysis of the vigilantes during this turbulent era, and the text was marked by some of society's emergent ideas of the rights of the accused.

However, this does not mark a wholesale abandonment of the myth. Literature continued to appear supporting the vigilantes as heroes and embracing the villainous portrayal of the road agents and Henry Plummer. It is interesting to note that there were new edition printings of Dimsdale, Langford, and *Banditti* in the 1950s and early 1960s, suggesting that there was a demand and readership for these interpretations of the episode.<sup>109</sup>

As the 1960s wore on, American violence changed dramatically: not only did it increase significantly, but also it became more visible. What had begun as peaceful sit-ins by Civil Rights activists had evolved into violent and frightening race riots. "From 1963 to 1970 America was rocked by well over 500 race riots with at least 263 persons killed and property damage of \$160-\$200,000,000," explains Richard Brown. These riots were larger than most demonstrations in then-recent memory, they inflicted massive amounts of damage on humans and on the areas in which they occurred, and they proved very frightening to a great many people. Because of the news media, specifically television,

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<sup>108</sup> J.W. Smurr, "Afterthoughts on the Vigilantes," *Montana: The Magazine of Western History*, 8.2 (Spring, 1958): p, 8, 10, 18.

<sup>109</sup> Dimsdale's book was reprinted by the University of Oklahoma Press in 1953, Langford's was reprinted by Oxford University Press in 1957, and *Banditti* reprinted by Ross and Haines in 1964.

most Americans were able to see footage of the violence, which undoubtedly made it more real and more personal than had they simply read about it in an article in a newspaper. Moreover, film of the Vietnam War and of the assassinations of President John F. Kennedy, Martin Luther King, and Robert Kennedy were televised and experienced by the American people in a similarly graphic manner. Violence was becoming more visible in the everyday lives of Americans, which changed the manner in which people conceptualized the role of violence and murder in American society.<sup>110</sup>

Specifically, questions emerged surrounding the rights of an individual accused of a crime. In 1966, the Supreme Court's ruling on *Miranda v. Arizona* demanded that individuals accused of a crime be read their rights. Moreover, the Miranda decision was a step towards the humane treatment of the accused including not only awareness of their rights, but also the prevention of coercive actions on the part of law enforcement. Historian Jack Kelly explains "The Miranda decision immediately became part of the struggle during the 1960s between civil libertarians and advocates of law and order." And although it has become an accepted part of the American legal system, "the perceived leniency toward wrongdoers rankled some." To this day, the Miranda ruling generates controversy: its extension to detainees captured in the War on Terror is hotly debated.<sup>111</sup>

As the Supreme Court ruled on the Miranda case domestically, American involvement abroad likewise impacted American conceptualizations of legitimate force. This was the era of the Vietnam War. Richard Brown observed in his 1975 book that the "two most notable episodes of violence in our generation have been the massive black

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<sup>110</sup> Brown, *Strain of Violence*, p. 218.

<sup>111</sup> Jack Kelly, "The Miranda Decision, 40 years later," American Heritage: <http://www.americanheritage.com/articles/web/20060613-ernesto-miranda-rights-supreme-court-fifth-amendment-arizona-constitution-scottsboro.shtml> (accessed May 1, 2009).

ghetto riots of the 1960s and the direct American participation in the Vietnam war, 1965-1973." Brown claimed that the war in Vietnam profoundly impacted American conceptualizations of the legitimate use of force. The subjects of vigilantism and Vietnam are not so divorced as one might initially think: Brown argued that the fact that president Lyndon Johnson came from Texas, a state steeped in justified vigilante activity, influenced his perceptions of the legitimate use of violence. "On many occasions and to many listeners, Lyndon B. Johnson clearly related his defense of South Vietnam to the self-defense efforts of his forebears and the people of central Texas against the Indians and outlaws." Moreover, in the same way that the race riots brought protests and police control of angry citizens into living rooms across the nation, the increasing number and volume of anti-war protests gave Americans yet another lens through which to consider the legitimate use of force.<sup>112</sup>

In the aftermath of these profound events and changes in American social consciousness, many historians and writers began to follow Smurr's example and openly questioned whether the vigilantes' use of deadly force was in fact justified. Like Smurr, they begin to look at other social factors that may have had an impact on the episode, such as Civil War sympathies, political ambitions, and personality conflicts. However, the conservative perspective did not fall away completely. Other writers continued to publish texts in support of the conservative perspective of the vigilantes as righteous citizens acting nobly in self-defense. Despite the endurance of this conservative perspective, the full development of a revisionist perspective on the vigilantes marked the beginning of the contemporary phase of discourse on the vigilantes.<sup>113</sup>

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<sup>112</sup> Brown, *Strain of Violence*, p. 183, 295.

<sup>113</sup> These books were first published in the early 1980s, but the scholarship upon which they were based undoubtedly began at least a few years prior their first publication.

Virginia Towle published *Vigilante Woman* in 1966, and although it was completely uncritical of the thematic alignment of vigilantes with justice, it offered a slightly new angle on the story. Towle's background is unclear, but in the introduction to the text, she made clear that her research carried her to archives across the nation, from the Montana Historical Society to multiple public libraries in Montana and Utah. She was clearly not a Montana native, as she referred to Montana as her brother's "adopted state." Towle made no mention of association with any university or organization. This, in combination with the tone of her book and its trade publisher, indicated that she wrote it for a popular audience.<sup>114</sup>

Towle was interested in the upstanding women of Virginia City and Bannack, who supported their brave husbands in the terrible task to which they had been set. *Vigilante Woman* profiled seven women from the two towns, from Electa Bryan Plummer (the sheriff's young wife) to Mrs. Annette Dimsdale (wife of author Thomas Dimsdale). Towle described the experiences of these "stout-hearted women" and their connections to the "well dubbed... 'Fifty Righteous Hangmen.'" Towle complained that in earlier iterations of the story, "the Vigilante woman, the petticoated female behind this turbulent scene of 1863-1864, has gone unheralded and unsung." Towle conceded that perhaps the hanging of Joseph Slade was too harsh a sentence, but even if his execution was more severe than he deserved, it would have marked the one "blunder which smirches the otherwise generally supported and justified crusade of the Montana Vigilance Committee." While Towle was presenting a previously-unexplored perspective on the vigilante episode, she continued to embrace the vigilantes as regional heroes. Except the

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<sup>114</sup> Virginia Rowe Towle, *Vigilante Woman* (New York: A.S. Barnes and Co., Inc., 1966): p. 10.

brief suggestion that perhaps Slade should have been banished instead of executed, she was completely supportive of the vigilantes' behavior.<sup>115</sup>

Two more books published in the early 1980s both embraced this conservative perspective. Art Pauley published *Henry Plummer: Lawman and Outlaw* in 1980, and Llewellyn Callaway published *Montana's Righteous Hangmen: The Vigilantes in Action* two years later in 1982. Both of these texts were extremely reminiscent of the earliest phase of vigilante literature, as they not only embraced the conservative characteristic of vigilante praise, but also as they were penned by regional authors who had interest in maintaining the vigilante myth. Art Pauley cited his "Granduncle John" as the dawn of his interest in the subject, as his relative "grew old and time was heavy on his hands he liked to reminisce about the Montana as he knew it, when the land was free and the west was young." Throughout the awkwardly-organized text, Pauley upheld the shadowy remembrances of his granduncle and reaffirmed the regional heroic interpretation of the vigilantes. Likewise, Llewellyn Callaway was born and raised in Virginia City and was the son of a Montana state district judge. Much like Pauley, his regional context and likely conservative upbringing were responsible for his desire to uphold the myth of Plummer as "a cold-blooded, calculating villain, secretive to the last degree, possessed of great organizing and executive ability." Moreover, Callaway relied on the perspectives and experiences of his father, James E. Callaway, a Montana resident during the 1870s, as evidence of the good work of the vigilantes. Both of these texts, extremely similar in nature, represented the enduring acceptance of the vigilante myth free from ethical

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<sup>115</sup> Ibid, p. 17, 164. Joseph Slade has a fascinating story unto himself, which in myth is similar to that of Henry Plummer in its bizarre polarization. Slade was a brave and heroic stagecoach driver, as well as a loving and faithful husband, but also had a reputation as a rabble-rouser and occasionally ran afoul of the law. The vigilantes executed him, although there was no proof of his involvement with Plummer and the road agent gang.

scrutiny. In these iterations, like in those of Dimsdale, Langford, Birney, and others, the vigilantes were unexamined heroes, and Plummer and his men were undoubted villains.<sup>116</sup>

However, this era of literature cannot be fully characterized by these conservative texts. Along with the wider movement of the New Western History, heralded by historians such as Patricia Limerick and Richard White, some authors offered new examinations of the episode. While Richard White, as a part of the New Western History movement, championed reexamination of Western History with attention to a wider diversity of perspectives, he did not address the hanging of Henry Plummer in that light. In his 1991 book *It's Your Misfortune and None of My Own*, White offered an explanation of the vigilantes that did not unquestioningly support their efforts and embraced Brown's description of vigilante action as either socially constructive or destructive. Hypocritically, without flinching, White assumed Plummer's guilt and the unambiguous nature of the situation. "In the early 1860s... the Plummer gang of Montana murdered and robbed with impunity because its leader, Henry Plummer, was also the sheriff of Bannock." White went on to classify the episode: "The Bannock-Virginia City vigilante movement of 1863-1865 dispatched the Plummer gang and established a classic model of what has been called 'socially constructive' vigilantism," he explained. In White's interpretation, the Montana vigilantes established a legitimate example of the good that vigilante movements had the potential to do. Although his larger exploration of

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<sup>116</sup> Pauley, *Henry Plummer*, p. 7. Callaway, *Montana's Righteous Hangmen*, p. 15. Callaway's biographical details from his obituary in the New York Times (<http://www.nytimes.com/1992/08/13/obituaries/l-l-callaway-jr-84-publisher-of-newsweek.html?sec=&spon=>).

vigilante justice examined extralegal violence with an extremely critical eye, the Montana vigilantes somehow escaped scrutiny.<sup>117</sup>

It was during the 1980s and into the 1990s that the most forceful revisionist interpretations of the episode occurred. The first significant publication in this vein was R.E. Mather's and F.E. Boswell's *Hanging the Sheriff: A Biography of Henry Plummer*, in which the co-authors boldly claimed Plummer's complete innocence. Ruth Mather received degrees at Brigham Young University in Utah and spent time as a researcher at the Salt Lake Genealogical Library. She also taught English at the University of Idaho, the University of Maryland, and the College of Redwoods in California. Fred Boswell earned degrees from Humboldt State University and the University of Mississippi. He taught at Humboldt State and for the Department of Defense.<sup>118</sup>

In *Hanging the Sheriff*, the authors immediately remarked on the regional use of the story as a morality tale and expressed that some Bannack citizens doubted the guilt of their sheriff. They claimed that the earliest versions of the story were so plagued with "inaccuracies and fabrications" that all of the subsequent texts have been based on uninformed stereotypes and even lies. Mather and Boswell carefully examined accounts of Plummer's supposed list of crimes and observed that not only did the list fail to suggest the work of an organized gang, but also it in no way indicated Plummer's guilt. The authors traced the patterns in Plummer's career:

He came to both Nevada City [California] and Bannack with intentions of settling down to family life: first buying a home and next making plans to marry. For financial security at both locations he relied on mining, but followed the

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<sup>117</sup> Richard White, *It's Your Misfortune and None of My Own: A New History of the American West* (Norman: University of Oklahoma Press, 1991), p. 332.

<sup>118</sup> Precisely what Fred Boswell taught is unclear.

profession of a law enforcement officer. In both instances, his downfall was brought on by his being too democratic to make a successful politician, becoming involved with helping social outcasts... and granting them the same respect as influential citizens.

Mather and Boswell here painted an extremely different interpretation of Plummer. They proposed that this "open minded and gentle mannered, yet flamboyantly courageous" man demonstrated a "calm refusal to prejudge those he was called upon to arrest." They acknowledged that Plummer "admitted to killing men in self-defense and to forming bad associations," but they interpreted the ire that he carried as a result of his unwillingness to be riled into mob violence. Instead of being hanged for leading the ruffians, they suggested, perhaps he was hanged for standing up for due process in the face of an angry mob; perhaps the vigilantes saw Plummer and his position as a threat to their momentum, and through fabricated charges, justified his execution.<sup>119</sup>

Mather and Boswell did not leave the issue there, either. In 1991, they published yet another text supporting this line of argument. *Vigilante Victims: Montana's 1864 Hanging Spree* continued to criticize the vigilantes' reign of terror and labeled their execution of other regional outcasts, like that of Plummer, as the real criminal action. The victims, they argued, "were not all criminals; some were guilty of nothing more than associating with 'roughs', while others were innocent of even that crime." The authors did not seek to paint all of those who were executed as upstanding citizens, but they argued that the executioners were not heroes acting in self-defense. They reiterated, "there is no evidence that the Bannack sheriff headed an outlaw gang." During the winter of Plummer's execution, the authors ascribed 21 deaths to the vigilantes. The victims, they noted, "had several interesting commonalities: more than three-fourths had arrived in the

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<sup>119</sup> Mather and Boswell, *Hanging the Sheriff*, p. 3, 190.

area with no previous criminal record, had come from the 'other side' of the mountain, had personal enemies among the vigilantes, and had never taken a human life... at the time of their capture, nearly half were either sick, wounded or crippled." The authors' presentation of this and other evidence starkly challenged the established mythology of the vigilantes as heroes. Directly rejecting the conservative interpretation of the vigilantes as justified and as acting in self-defense, Mather and Boswell sought to understand the wider political and social context in which the vigilance committee extra-legally executed these men.<sup>120</sup>

The most recent book on the subject, *A Decent Orderly Lynching: The Montana Vigilantes*, by Frederick Allen, continues on the path begun by Mather and Boswell but modifies it. Allen, hailing from Atlanta, is former political commentator for the *Atlanta Constitution* and CNN. As an historian, Allen has penned texts on the background of the Coca-Cola Company and on Atlanta as an international city. Allen's text on the vigilantes, like the others in this vein, seeks to challenge the traditional mythology and to understand the larger social and political context in which the vigilante episode occurred. Unlike Mather and Boswell, however, Allen does not embark on an attempt simply to redistribute labels of "good" and "evil." Instead, he places all players on equal footing and looks more deeply into their backgrounds than other authors. The middle ground that his text occupies is exemplified by his comments on Plummer: "To suggest, as Dimsdale did... that Plummer was an 'oily and snake-like demon' caught 'red-handed' is plainly to exaggerate for dramatic effect. To say, by contrast, that Plummer was 'open-minded and gentle mannered, yet flamboyantly courageous,' and a man who 'assumed a leadership

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<sup>120</sup> Mather and Boswell, *Vigilante Victims*, p. 2, 55, 161.

role in civilizing the mining frontier'... seems equally unbalanced." Allen seeks instead to discuss the events in the social and political context of the Idaho Territory in 1864.

Allen observes early on in the text that while robberies occurred in the region, as they did in all mining camps, the robbers were not highly organized, nor did they have any interest in killing or hurting their victims. He casts the formation of the vigilance committee in a hue of fear: the unsettling nature of a relatively stable frequency of highway robberies was exacerbated by the murder of young Nicholas Tiebolt. Finally, this murder, in conjunction with lingering fear of an uncivilized territory, political conflicts, and personal problems, led to the development of the mob. Allen explores the personal connections among the individuals who were involved in the episode; he gathers as much information on the vigilantes and their alliances as possible, as well as details on the background of the supposed road agents and even the roles played by Langford and Dimsdale. He is highly skeptical of the existence of an elaborate gang with codes and secret symbols. These stories of neckerchiefs tied in a special knot or a certain style of facial hair "simply do not ring true. Why would the members of a small band of highwaymen have used special signs to recognize each other? Why would they have advertised common cause by the use of distinct facial hair or neckwear or any other symbol? Why would they have had a password? And if they did, why would it be the odd phrase, 'I am innocent'?" The critical interpretation that Allen offers seems to belong to a category of its own; instead of bickering over which group is more in the wrong, he seeks to understand why the situation erupted into such a frenzy of violence.<sup>121</sup>

Allen's book marks a welcomed first step in a new direction of analyzing the vigilante episode in Montana in 1864. By stepping completely clear of the stereotypes

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<sup>121</sup> Allen, *Decent, Orderly Lynching*.

and moral implications of the event's traditional mythology and engaging the available truths on their own merit, Allen is able to cast the story on a more universal stage. Instead of invoking abstract qualities like "good" and "evil," he looks into influences of national events and politics, of individual opinions, backgrounds, and ambitions, and of the larger context of life in a mining town in the Idaho Territory during the mid-1860s. However, Allen's text has by no means brought an end to the vigilante literature. The scope of his book very adeptly analyzes the facts and events that unfolded, but it does not include any examination of the endurance of the myth despite mounting evidence to the contrary. He offers insight into what might have actually unfolded, but he declines to explore why debunking the myths of "good" and "evil" is important and what might be indicated by the truths that communities deliberately avoid through this mythologization.

It is very likely that the reason the myth has endured with such vigor is the same reason that John Wayne westerns are still popular: the public prefers to cast these stories in simpler terms and to feel resolution when they end. Moreover, there is money to be made in the myth. Tourists do not visit ghost towns to have a deeply-challenging or ethically-trying experience. Rather, they prefer to cheer for the gunslinger, the underdog, the All-American Good Guy. Perhaps this is why, in the face of scholarship with an ever-expanding conscience toward the grievous human rights violations embodied in this historical episode, Montana still upholds the vigilantes as heroes.

## Chapter III – Violence as Performance

*"The Past and the Other are two of humanity's main preoccupations. Rendering significant what has happened is a daily, seasonal, celebratory, generational activity, done in private and in public, personally and institutionally. Marking the boundaries of difference constantly defines self, role, class, culture. It divides young and old, living and dead, human and divine, native and stranger. No one, individually, socially, culturally is without a signified Past or a signified Other."<sup>122</sup>*

### The Cultural Significance of Violence

The vigilante episode of 1863-1864 has not fallen by the wayside of popular history in Montana; to the contrary, the events have been mythologized and are remembered, recounted and performed frequently in the region. This chapter seeks to explore the many layers of narratives that have been performed through and around the vigilante hangings and Henry Plummer. Application of anthropological and sociological theories about civil violence reveals that the decisions and actions of the vigilantes are only the foundation for the performance of a specific self-defining narrative. From the moment the men of Virginia City mounted the posse to hunt for Alec Carter, citizens of the region have added layers of narrative and interpretation to the myth.

According to anthropologist Anton Blok, "Rather than defining violence *a priori*... we should consider it as a changing form of interaction and communication, as a

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<sup>122</sup> Denning, *Death of William Gooch*, p. 16.

historically developed cultural form of *meaningful* action."<sup>123</sup> Blok explains in his book, *Honour and Violence*, that violence – past or present – cannot be understood as historically or culturally discrete. Violence, in both its means and ends, is laden with meaning. Blok's book explores how acts of violence relate to the self-definition and social standing of individuals and groups in history. "Honour and status are implicit in violence. The use of physical force, even in its most brutal and enigmatic forms, is rarely 'meaningless' or 'senseless'. On the contrary, it is often honorific – especially under conditions of political insecurity when people 'have to make themselves respected.'"<sup>124</sup> These general notions are clear in the vigilante episode; the middle and upper classes of Virginia City and Bannack utilized violence to establish their power and maintain the social and moral status quo.

The violence of this episode was not random or subtle. Though extralegally administered, it took the outward form of hanging as public execution, a tradition of punishment well-established in Europe and North America. As Blok explains the inherently meaningful nature of violence, Foucault illuminates the cultural implications of violence as punishment: it is simultaneously a "complex social function" as well as a political tactic. By this, Foucault means that punishment has not only destructive impacts, but also has intended "positive" effects. In other words, he says, real analysis of disciplinary violence must "situate [punitive mechanisms] in a whole series of their possible positive effects, even if these seem marginal at first sight."<sup>125</sup> Foucault cites the earlier work of *Punishment and Social Structures* by Georg Rusche and Otto Kirchheimer to reiterate this point. He paraphrases: "We must... rid ourselves of the illusion that

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<sup>123</sup> Anton Blok, *Honour and Violence* (Cambridge, UK: Polity Press, 2001), p. 104.

<sup>124</sup> *Ibid*, p. 9.

<sup>125</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Paris: Editions Gallimard, 1975), p. 23.

penalty is above all (if not exclusively) a means of reducing crime... We must analyse rather the 'concrete systems of punishment', study them as social phenomena..."<sup>126</sup> In other words, hanging men accused of membership in a criminal organization is not *exclusively* an effort to increase public safety. It is, additionally, a performance of power and values.

As early as the mid-eighteenth century, intellectuals in Western Europe began articulating critiques of the spectacular nature of public executions and pressing for more "civilized" correctional systems.<sup>127</sup> "The ceremonial of punishment tended to decline; it survived only as a new legal or administrative practice."<sup>128</sup> The decades surrounding the turn of the 19<sup>th</sup> century "saw a new theory of law and crime," and as a consequence, explains Foucault, "old laws were abolished, old customs died out. 'Modern' codes were planned or drawn up: Russia, 1769; Prussia, 1780; Pennsylvania and Tuscany, 1786; Austria, 1788; France, 1791... It was a new age for penal justice."<sup>129</sup> Overall, he observes, "By the end of the eighteenth and beginning of the nineteenth century, the gloomy festival of punishment was dying out, though here and there it flickered momentarily into life."<sup>130</sup> Southwestern Montana in the 1860s proved to be tinder for just such a flame, but one must wonder: why?

As the spectacle of capital punishment began its retreat in the middle of the nineteenth century from the public square to the cloistered halls of an increasingly legislated, modernized, sanitized and highly regulated penal system in much of western Europe, this dark legacy had already managed

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<sup>126</sup> Ibid, p. 24.

<sup>127</sup> Randall McGowen, "Civilizing Punishment: The End of the Public Execution in England," *The Journal of British Studies*, vol. 33, no. 3 (Jul. 1994) pp. 257-282. p. 258

<sup>128</sup> Foucault, *Discipline*, p. 8.

<sup>129</sup> Ibid, p. 7.

<sup>130</sup> Ibid, p. 8.

to stow away in vessels leaving ports throughout Europe and make its way, first across the Atlantic and then around Cape Horn...<sup>131</sup>

As Foucault suggests and Gonzales-Day confirms, the dark relics of corporal punishment had been transplanted into the American West. However, they shifted from judicial to extrajudicial. As Mark Fearnow argues, "Since the gradual elimination of these legal public events in Europe and North America, the practices... continued, of course, in extralegal mob actions."<sup>132</sup> What specific social conditions in a frontier mining community could have allowed for such violence?

In his 1962 book, *The Process of Economic Growth*, American economist W.W. Rostow's outlined a theoretical model of economic development that categorized communities as they phased from feudal systems to consumer societies.<sup>133</sup> According to the Rostovian model, the 1860s mining communities of Bannack and the Alder Gulch would have been in the third phase of economic development, "Take-off." Rostow defines this phase as the point at which a community is able to sustain its own economic growth, but still relies on other, larger economies to function.<sup>134</sup> Colonies are an excellent example of such a growing and yet still-dependent economy; frontier towns were, essentially, colonies. While manufactured goods came in from larger, industrialized urban centers, mining communities were isolated socially and legally from these larger frameworks, and in a constant state of rapid expansion.

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<sup>131</sup> Ken Gonzales-Day, *Lynching in the West 1830-1925* (Durham: Duke University Press, 2006), p. 24.

<sup>132</sup> Mark Fearnow, "Theatre for an Angry God: Public Burnings and Hangings in Colonial New York, 1741," *The Drama Review*, 40.2 (Summer, 1996), p. 16.

<sup>133</sup> The phases that Rostow delineates are as follows: 1. Traditional Society, 2. Preconditions of Take-Off, 3. Take-off, 4. Drive to Maturity, 5. Age of High Mass Consumption. Walt Whitman Rostow, *The Process of Economic Growth* (New York: Cambridge University Press, 1962).

<sup>134</sup> Author's Notes from lecture by Professor Louis Hayes, "Theories of Civil Violence: Long-Term Factors," September 9, 2009. Rostow, *Economic Growth*, p. 7.

This third Rostovian stage is an extremely socially volatile phase, and prone to violence. Local elites are loath to relinquish the status quo, but as technology eclipses tradition, established hierarchies are challenged.<sup>135</sup> In Bannack and Virginia City, individuals like Sanders, Edgerton, Langford and others represented the elite class of the area; they held a vested interest in maintaining the social structure as it had been transplanted from the East. Before their eyes, new players from other classes emerged on the scene as they gained wealth from mining exploits – men such as Plummer and his deputies – establishing an emergent alternative hierarchy. According to Rostow's model, this economic context created an extremely high probability of violence.

Another significant factor that increased the probability of violence in Southwestern Montana during this decade was the significant racial and cultural homogeneity of miners flooding into the area. Most – like Plummer, Cleveland, Langford, Dimsdale, the Edgertons, the Sanders' – were white and had arrived from the more civilized edges of the nation. Photographs preserved by the Montana Historical Society confirm; almost all of the faces in the few images of Bannack around this era are white.<sup>136</sup> The vast majority of citizens were Christian. A significant number of the men claimed Masonic membership. There was little diversity in these two mining towns, which further increased the probability of violence. Counterintuitively, overwhelmingly homogenous populations, as compared to extremely diverse populations, are more prone to violence. As Anton Blok summarizes, "the fiercest struggles often take place between individuals, groups and communities that differ very little – or between which the

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<sup>135</sup> Hayes Lecture, "Theories of Civil Violence: Long-Term Factors," September 9, 2009.

<sup>136</sup> Montana Fish, Wildlife and Parks and the Bannack Association Brochure, "Bannack" (Helena, Montana: no date of publication).

differences have greatly diminished."<sup>137</sup> Economically, the differences between men such as Plummer and the elites of Virginia City were shrinking due to the wealth brought by mining, and socially, these small frontier communities diminished differences even more. This concept of what Freud labeled "The Narcissism of Differences" is important, and will be revisited later in this chapter.<sup>138</sup>

Economically and socially, according to these theoretical frameworks, the probability of bloodshed in Bannack and Virginia City was high. Perhaps these conditions were precisely what allowed brutal public executions to "flicker momentarily into life" in the region.<sup>139</sup> Even after most of Western Europe and the United States had begun to favor more quiet, private executions, the vigilantes ensured that the alleged highwaymen were executed publicly. This decision – to make the vigilantes' work highly visible to the community at large – represents an important layer of narrative.

Hanging is by no means a neat or discreet affair. "Hanging a man from a tree, pole or gibbet was no easy task," explains Gonzales-Day. "In a legal execution, the hangman's job is to end the condemned man's life as quickly and painlessly as possible; it is for this reason that gallows are constructed with a trap door." Of course none of the hangings conducted by the vigilantes was so coordinated as to utilize a trap door and calculated distance of drop. "Furthermore, the noose must be carefully adjusted and the knot must be properly placed. If the noose is too tight or is poorly placed, the condemned may be decapitated. Such details, while unpleasant, help to explain why extrajudicial executions were undeniably... gruesome and violent..."<sup>140</sup> The vigilantes made a deliberate choice to perform the execution of the road agents. They did not shoot,

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<sup>137</sup> Blok, *Honour and Violence*, p. 115.

<sup>138</sup> *Ibid*, p. 116.

<sup>139</sup> Foucault, *Discipline*, p. 8.

<sup>140</sup> Gonzales-Day, *Lynching*, p. 48-49.

poison or otherwise make their targets simply disappear. They utilized the inherently public nature of lynching to communicate ideas and values to the larger community.

Another central element of hanging is the display of the victim's body. Mark Fearnow, in his article "Theatre for an Angry God" asserts that if those responsible for the hanging "can be seen as authors, their authorial intent in 'writing' the texts for these performances is that the audience would witness the event..."<sup>141</sup> In other words, the execution is the performance of a narrative that the perpetrators want the larger community to see, and part of the performance is the display of the victim's body as a physical representation of the act. As Gonzales-Day observes, "public display of the body can be found in every case [in California], with the shortest times usually lasting around thirty minutes, and the longest, until the body decayed."<sup>142</sup> This phenomenon was not unique to California, either. Following the trial of George Ives, Dimsdale recalls, "The body of Ives was left hanging for an hour. At the expiration of this period of time, it was cut down, carried into a wheel-barrow shop and laid out on a work bench."<sup>143</sup> Later, when the vigilantes hanged Yager and his comrade Brown, they literally labeled the men's corpses with notes justifying their deaths. "A label was pinioned to his back bearing the legend: **'Red! Road Agent and Messenger.'**" The inscription on the paper fastened on to Brown's clothes was: **'Brown! Corresponding Secretary.'**<sup>144</sup> Of course, the vigilantes treated Plummer's corpse in a similar fashion. "Soon after, the party formed and returned to town, leaving the corpses stiffening in the icy blast. The bodies were eventually cut down by the friends of the road agents and buried." The vigilantes had no intention of

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<sup>141</sup> Fearnow, "Theatre for an Angry God," p. 17.

<sup>142</sup> Gonzales-Day, *Lynching*, p. 65.

<sup>143</sup> Dimsdale, *The Vigilantes of Montana*, p. 85

<sup>144</sup> *Ibid*, p. 101. Dimsdale's bold text.

cutting down the corpses of – as Dimsdale labels him – "the oily and snake-like demon, Plummer," and his deputies.<sup>145</sup>

The vigilantes and witnesses exhibited even more extreme behavior in the case of hanging of "the Greaser," Joe Pizanthia. After one vigilante shot an already-wounded Pizanthia multiple times,

A clothesline was taken down and fastened round his neck; the leader [Simeon Estes] climbed a pole, and the rest holding up the body, he wound the rope round the top of the stick of timber, making a jamb hitch. While aloft, fastening all securely, the crowd blazed away upon the murderer swinging beneath his feet... Over one hundred shots were discharged at the swaying corpse.

Even then, the crowd was not satisfied. "A proposition to burn the Mexican was received with a shout of exultation. The body was hauled down and thrown upon the pile upon which it was burned to ashes so completely that not a trace of a bone could be seen when the fire burned out."<sup>146</sup> This display of destructive behavior against Pizanthia's corpse furthered the interactive spectacle of these public executions.

"Violence," explains philosopher Hannah Arendt, "is...the most flagrant manifestation of power."<sup>147</sup> The vigilantes, through violence and extralegal executions, not only reinforced own their social power and political control over the marginalized elements of the cultural group, but communicated a narrative to the larger community. This narrative reflected not only the cultural and moral background from which these men had come, but also illustrated their own value systems and their visions for the future.

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<sup>145</sup> Ibid, p. 112.

<sup>146</sup> Ibid, p. 114. Pizanthia's ethnic background is unknown; in all texts from the era, authors refer to him as of Mexican descent.

<sup>147</sup> Hannah Arendt, *On Violence* (New York: Harcourt, Brace & World, Inc., 1970), p. 35.

## Coded Messages

As discussed in the previous segment, the violence that the vigilantes exhibited in 1863-1864 in Southwestern Montana is thick with meaning. The vigilantes chose to conduct public executions, the likes of which had not been widely legally utilized in the majority of Western Europe or North America for decades, and these performances communicated a specific, value-laden narrative to the rest of the community. Exploring the texts and actions of the vigilantes with an eye to notions of purification, sacrifice, and self-definition offers insight into their possible perspectives and goals.

Punishment, as Foucault explains, is simultaneously positive and negative; the physical act of punishing a body is a deterrent to other potential criminals, but it also has some larger, overarching goals. In other words, such violence is not exclusively an effort to ensure public safety, but also represents a piece of a social and cultural narrative. Fearnow echoed this sentiment in his article about public executions in New York. Violence is a performance about the values of the perpetrators.<sup>148</sup> Fearnow's article, "Theatre for an Angry God," explores trends in public executions during the mid-eighteenth century in New York and engages concepts of collective purification through sacrifice. He describes these performances of values through violence against a victim as "rituals of containment... activities that were used by members of the dominant community to enforce codes of behavior on errant individuals."<sup>149</sup> Fearnow's exploration of who these targeted individuals were in relation to the society's majority and how the

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<sup>148</sup> Fearnow, "Theatre for an Angry God," p. 17.

<sup>149</sup> Ibid, p. 15.

dominant element described and dealt with them reveals trends that are apparent in and offer insight into the case of the vigilantes and road agents.

In New York, the early months of 1741 brought brutally cold and wintry weather, killing off stock and significantly reducing the colonists' food supply. Moreover, the British Empire was engaged in war with Spain, which kept citizens on constant edge for fear of spies or surprise attacks from the sea. Colonists also feared a French attack from the north; a victory by the French over Fort Oswego, Lieutenant Governor George Clarke claimed, would make the entire colony vulnerable to invasion by the "Six Nations" of the Iroquois Confederacy in the area. And these were merely the threats that the colonists feared from outside of the community; "Records show the considerable anxiety felt by the 8,000 white inhabitants about sharing the resources of the town with 2,000 Africans."<sup>150</sup> Clearly, New York at this point in history was a community full of tension and fear. Fearnow summarizes the scenario as "a nervous white community in New York in 1741, crouched in their vulnerable wooden houses, afraid of the French and the Spanish, afraid of the Six Nations, afraid of Catholics, afraid of poverty, afraid of the Africans in their midst."<sup>151</sup> When anything went wrong, blame almost immediately fell upon the African element of the population, explains Fearnow. The white, homogenous segment of the community utilized the racially distinct element of New York as something of a safety valve; this act of self-definition and social purification will be discussed further at a later point.

When a fire broke out at the governor's abode, law enforcement immediately captured a white indentured servant girl. In exchange for her complete freedom, they asked for whatever information she had regarding the fire. Initially, she indicated one

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<sup>150</sup> Fearnow, "Theatre for an Angry God," p. 19.

<sup>151</sup> Ibid, p. 20.

black member of the household staff, but soon the suggestions swelled into a storm of accusations including not only arson and theft, but with one man hung on suspicion of acting as a papal spy.<sup>152</sup> It is not difficult to draw comparisons between the events that Fearnow describes and the vigilantes' hanging spree: expanding conspiracy theories driving violent cycles that lasted for months and socially or economically marginalized members of the community brutally eliminated. "The deep structure that can be discerned beneath... the persecution events of 1741... is the belief in sacrifice-for-purification," explains Fearnow. This concept – purifying the majority of the community via elimination of similar and yet somehow marginalized members of the minority – sheds light on the vigilante episode as well.

One specific characteristic blatantly apparent in both cases is the manner in which the dominant majority psychologically and linguistically constructs the "other." For instance, Fearnow quotes a passage from a petition delivered to Lieutenant Governor Clarke complaining that the community's "honest and industrious" tradesmen were being driven into poverty by the African population. The governor, in turn, "urged the Assembly... to do whatever it could to decrease the numbers of 'negroes and criminals' in the colony, while increasing the number of 'honest, useful and laborious white people.'"<sup>153</sup> Obviously, the white Protestant majority perceived themselves as the positive element in society, and constructed the racially-distinct portion of the community as inherently criminal. Gonzales-Day observes a very similar use of language to construct a criminal class within the larger community; in his California case studies, many targets bore the label of "Greaser," a derogatory name for citizens of Mexican descent.<sup>154</sup> The

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<sup>152</sup> Ibid, p. 22-23.

<sup>153</sup> Ibid, p. 19.

<sup>154</sup> Gonzales-Day, *Lynching*, p. 31-32.

vigilantes use nearly identical language tactics in describing themselves in comparison to the road agents.

The opening paragraphs of Thomas Dimsdale's text, *Vigilantes of Montana*, establish two classes of citizens in the region. Dimsdale immediately pits the "steady and hard-working classes" against the "uneducated and unprincipled people."<sup>155</sup> He observes "the sterling stuff of which the mass of miners is made, their love of fair play, and their prompt and decisive action in emergencies," in contrast to desperadoes.<sup>156</sup> "Middling people do no live in these regions," he asserts.<sup>157</sup>

While a majority of the citizens were of sterling stock, which has ever furnished the true American pioneers, there were great numbers of the most desperate class of roughs and road agents, who had been roving through the mountains, exiles from their former haunts in the mining settlements, from which they had fled to avoid the penalties incurred by the commission of many a fearful crime.<sup>158</sup>

*Banditti of the Rocky Mountains* sets up this same dichotomy: the author suggests that the two classes of people populated the West, one of which was inherently good and the other fundamentally corrupted. "Bands of desperadoes were not only organized... but... rode rough-shod, as it were, over the rights of the people, trampling upon both human and divine law, and so disturbing the quiet of the peaceful citizens," accuses the author. Other writers also present the settlements in Bannack and Virginia City as divided into "peaceful citizens" – in other words, the people who held vested interest in recreating Eastern social strata – and criminal lowlifes who frequented establishments of ill-repute and viewed efforts toward establishing a social structure that mimicked Eastern status

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<sup>155</sup> Dimsdale, *Vigilantes*, p. 9.

<sup>156</sup> *Ibid*, p. 10.

<sup>157</sup> *Ibid*, p. 11.

<sup>158</sup> *Ibid*, p. 24.

quo as of little value. The author of *Banditti* comments more than once on the fate of "the sturdy miner, followed by merchants, speculators and businessmen... who not unfrequently fall unsuspecting victims into the hands of these incarnate devils..."<sup>159</sup> The vigilantes, like the dominant white populations in New York and California, relied on language to create a myth about a minority within the community. By setting up such blatant dichotomies between the honest, upstanding majority and the evil infiltrating the society, the mythmakers not only create distance between themselves and their victims but also justify their own actions. In Fearnow's case in New York, and Gonzales-Day's examples in California, targeted elements of the community were racially distinct. In Montana in the 1860s, however, it was not race nor ethnicity that set the minority apart, but instead class.

Another significant similarity among these cases is not only the construction of an inherently evil "other," but also an exaggeration of their evil traits. Fearnow's examination of the case in New York reveals the white majority imagining a rapidly-expanding conspiracy among the marginal members of the community.<sup>160</sup> This trend is not isolated to these two cases: "[René] Girard observes this same phenomenon across history, as the dominant group in societies attacks representatives of a group which by any rational measure has little or no power," observes Fearnow. "Girard shows us how the persecuting group comes to believe wholeheartedly in the mysterious power and guilt of the targeted segment."<sup>161</sup> Historically, the difference between the minority and the majority is irrelevant:

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<sup>159</sup> Anonymous, *Banditti of the Rocky Mountains*, p. 35.

<sup>160</sup> Fearnow, "Theatre for an Angry God," p. 22, 23.

<sup>161</sup> *Ibid*, p. 25.

In Europe and America, the supposed threats (fill in Jews, 'witches,' dark-skinned persons, immigrants, Native Americans, Muslims, homosexuals) have attributed to them, by the dominant group, special powers that have no basis in fact. Members of these targeted groups are impossibly clever – plotters, recruiters, devourers from within.<sup>162</sup>

This pattern, of course, is obvious in the vigilante episode.

R.E. Mather and F.E. Boswell examine this exaggeration specifically in the case of Dimsdale's book. "Since the vigilantes relied on Dimsdale to present their case against Plummer... we will turn to [his book] for an examination of the evidence," the authors explain. "Dimsdale, who also blamed the road agent organization for scores of killings never detected, set the figure of documented murders at one hundred two..."<sup>163</sup> However, a count of the robberies and murders that Dimsdale describes in his book does not add up to nearly that number. Mather and Boswell

summarize, during the nearly fourteen months Plummer lived at Bannack, eleven robberies occurred in the mining districts east of the Rockies and two more were presumed; five Indians were killed and thirteen whites with two more whites presumed. Dimsdale's figure of one hundred two is obviously an exaggeration.<sup>164</sup>

The number of victims is not the only obvious exaggeration in the vigilantes' construction of the road agent gang. According to the vigilante account, Red Yeager revealed the secrets of how the gang operated. Yeager "volunteered that the group used a secret phrase for identity – 'I am innocent' – and recognized each other by use of a special

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<sup>162</sup> Ibid, p. 25-26.

<sup>163</sup> R.E. Mather and F.E. Boswell, *Hanging the Sheriff: A Biography of Henry Plummer* (Salt Lake City: University of Utah Press, 1987), p. 99.

<sup>164</sup> Mather and Boswell, *Hanging the Sheriff*, p. 100. Mather and Boswell's numbers include the supposed robbery of Henry Tilden, which most likely did not occur. At least three of the other accounts do not even have names attached to them. In short, even Mather and Boswell's count is generous.

'sailor's knot' on their neckties and by shaving their mustaches in a unique pattern."<sup>165</sup>

These details are highly illogical and unlikely to have been true. Frederick Allen agrees.

"They simply do not ring true. Why would the members of a small band of highwaymen have used special signs to recognize each other? Why would they have advertised common cause by the use of distinctive facial hair or neckwear or any other signal?"<sup>166</sup>

Mather and Boswell are also highly critical of these indicators of gang membership, especially the pass-phrase "I am innocent." The authors attribute this notion to Dimsdale:

"Dimsdale put the password to good use in his book, explaining away any victim's last insistence of innocence as being nothing more than the password."<sup>167</sup> As these recent historians observed, these details are unlikely and illogical. Instead of fact, they are almost certainly exaggerations crafted by the vigilantes about their imagined foes.

The vigilantes, like the citizens of New York in 1741 and those of California during the nineteenth century, constructed a group of criminals to justify their extralegal violence. And, across all of these examples, the targets of these acts of violence were not random; the victims of lynching fit a certain profile in their relationship to the dominant part of the community.

In Fearnow's example of the case in New York, the targets of mob violence were – for the most part – racially distinct from the majority: the mob accused only one white man of spying for the Pope.<sup>168</sup> The target group in Bannack and Virginia City was not racially distinct from the dominant class, but rather socially and politically distinct.

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<sup>165</sup> Frederick Allen, *A Decent Orderly Lynching*, p. 215. Dimsdale, *Vigilantes*, p. 99-100.

<sup>166</sup> Allen, *Decent Orderly Lynching*, p. 215.

<sup>167</sup> Mather and Boswell, *Hanging the Sheriff*, p. 109.

<sup>168</sup> Fearnow, "Theatre for an Angry God," p. 22. In an interesting – though perhaps completely coincidental – parallel to Henry Plummer, the mob accused this token white man of being the leader of the widespread conspiracy of arsonists and thieves. Plummer was less socially marginal than many of the other vigilante victims, and the mob also cast him as the ringleader of the criminal element.

Moreover, many of the victims literally lived on the edges of Bannack and Alder Gulch, alongside the few Native Americans still in the immediate vicinity. Though Henry Plummer and his deputies lived in Bannack, many others like "Red" Yeager, George Brown and "Dutch" John Wagner lived in wickiups outside of town. The connections among the hanged men and local Indians did not end with living in the same fringe areas. As Mather and Boswell observe: "of the four [hanging victims] who were married, two had Indian wives; three of the single men had Indian sweethearts."<sup>169</sup> These men were – in one manner or another – not fully performing the ideology or narrative of the American conquest of the frontier. Instead of upholding values of Whiteness, Christianity and capitalism, they were blurring the lines between "civilization" and "savage."

This proximity and distance from the status quo of the dominant community is an important element in interpreting the vigilante episode in a different light: sacrifice.

### **Sacrifice**

The ritual performance of sacrifice for purification is apparent throughout history, across cultures and communities.<sup>170</sup> Langford, Dimsdale and their contemporaries did not conceptualize the vigilante hangings as sacrifice, but rather as decisive action born from a need for self-defense. However, an interpretation of the vigilante episode as sacrifice reveals insight into the profile of the victims, the decisions of the vigilantes and the response of the community at large.

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<sup>169</sup> Mather and Boswell, *Vigilante Victims*, 161.

<sup>170</sup> René Girard, *Violence and the Sacred* (New York: Continuum International Publishing Group, 2005) p. 2-4.

Mark Fearnow applies René Girard's theories to the events in New York in 1741, and concludes that the execution of racially and religiously marginal community members has a two-fold purpose of sacrifice for purification. The first purpose of sacrifice is to enforce the social and moral codes of the dominant community. The second purpose is self-definition.<sup>171</sup> Each of these elements and functions is apparent in the vigilante episode.

Victims of such sacrifice, as discussed in the previous section, are not selected arbitrarily. "Rather, they must in some way be part of the community so as to be suitable substitutes for whole group and so be proper vessels for the whole group's impurities." Girard points out that these individuals somehow belong "both to the inside and the outside of the community."<sup>172</sup> This closeness and separation is crucial to the scenario in order to allow sacrifice to be performed toward a goal of purification; in other words, the marginal victim must be sufficiently similar to the dominant group, but not too similar. "If the gap between the victim and community is allowed to grow too large, all similarity will be destroyed," Girard explains. "On the other hand, if there is *too much* continuity the violence will overflow its channels. 'Impure' violence will mingle with the 'sacred' violence... turning the latter into a scandalous accomplice in the process of pollution," he continues.<sup>173</sup>

The alleged road agent gang fits this description perfectly. The victims of the vigilantes were, as previously discussed, both connected to the dominant social segment of Bannack and Virginia City, and yet – to varying degrees – were marginal to the majority. The early texts about the vigilantes utilize language that reinforces this concept

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<sup>171</sup> Fearnow, "Theatre for an Angry God," p. 27.

<sup>172</sup> Ibid, p. 272.

<sup>173</sup> Ibid, p. 41-42.

of purification. Previously discussed language from early sources created a dichotomy between honest, upstanding citizens and cruel, villainous roughs. This language inherently justifies the actions of the "good" to rid themselves of the "bad." Dimsdale opens most of his chapters with a short quote or poem, and his selection for the chapter entitled "The Formation of the Vigilance Committee" reads as follows:

The land wants such  
As dare with vigor execute the laws,  
Her festered members must be lanced and tented:  
He's a bad surgeon that for pity spares  
The part corrupted till the gangrene spread,  
And all the body perish: he that is merciful  
Unto the bad, is cruel to the good.<sup>174</sup>

The metaphor that Dimsdale employs in this short poem echoes the notion of sacrifice for purification. The task of the surgeon, he indicates, is to remove mercilessly the rancorous flesh in order to save the rest of the body. By this metaphor, the vigilantes fill the role of the surgeon, and their task is to purify and save the greater body by removing the poisoned elements.

By constructing a group of criminals from marginal community members, the vigilantes performed a narrative of purification of their own social majority. As Fearnow and Girard discuss, the first important purpose of this sacrifice for purification is to reinforce the social and moral codes of the dominant community. Foucault touches on this notion as well, in his exploration of the "negative" or deterrent function of public violence. On one level, public execution of criminals deters would-be criminals by advertising the consequences of misbehavior.<sup>175</sup> In other words, punishment of this kind

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<sup>174</sup> Dimsdale, *Vigilantes*, p. 89.

<sup>175</sup> Foucault, *Discipline*, p. 23-25.

is retribution for a crime on an individual level. However, another layer of what Foucault discusses as the "negative" function of punishment is as a deterrent performance. Public execution, in addition to serving individual retribution, reinforces the larger social codes of the majority: public execution makes an example of an individual who selected to act outside of the accepted community standards. It sends a message to the victim as well as to the larger social and cultural group.

Lynching road agents clearly sent a message of warning not only to other would-be highwaymen, but also on a symbolic level to the greater community. The men who the vigilantes hanged – men who were already marginal to the majority in one manner or another – represented decisions to live outside of the established social and moral status quo, and the risk that such decisions carried. None of the vigilantes' victims were typical miners; none owned mines or worked mining gold. Many had occupations involving the selling horses or alcohol. Most chose to frequent less-respectable bars – such as Cyrus Skinner's Elkhorn Saloon – instead of more clean-cut establishments. In short, these men represented a lower-class group of the larger social framework. Therefore, explains Fearnow, "in the conscious minds of the members of the privileged community, the killing is a just and necessary execution."<sup>176</sup>

Public executions also reinforced the dominant codes in the community in another manner: punishing victims in such a visible manner reassured members of the majority of their safety within the group. The vigilantes – most explicitly through the publications of Dimsdale – tell the community that through bravery and valiance, they will protect the innocent, hard-working members of the community. The first sentence of Dimsdale's book claims that "the end of all good government is the safety and happiness of the

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<sup>176</sup> Fearnow, "Theatre for an Angry God," p. 27.

governed," and that this was the overarching goal of the vigilantes.<sup>177</sup> They claim to be, essentially, protecting the status quo and those who wished to uphold the system.

The second significant function of sacrifice for community purification is that of self-definition. As Fearnow summarizes, performances of values through violence has an "integrating function" through which the "dominant group" is able to "reinforce difference and so define itself."<sup>178</sup>

### **Self-Definition**

Although at first glance it seems counterintuitive, the more homogenous a community is, the greater the chance of violence. As differences among groups decrease, it becomes more difficult for one group to define itself in comparison to others. Anton Blok explains: "an outline of a general theory of power and violence cannot ignore the fact that the fiercest struggles... take place between individuals, groups and communities that differ very little – or between whom differences have greatly diminished."<sup>179</sup>

Freud labeled this phenomenon "the narcissism of minor differences," and observed that "it is precisely the minor differences between people who are otherwise alike that form the basis of feelings of strangeness and hostility between them."<sup>180</sup> In other words, when one individual or group is clearly very different from another, they can each define themselves with significant differences. As those differences disappear, the

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<sup>177</sup> Dimsdale, *Vigilantes*, p. 9.

<sup>178</sup> Fearnow, "Theatre for an Angry God," p. 27.

<sup>179</sup> Blok, *Honour and Violence*, p. 5.

<sup>180</sup> *Ibid*, p. 116.

probability of violence escalates rapidly. "Order, peace and fecundity depend on cultural distinctions; it is not these distinctions but the loss of them that gives birth to fierce rivalries and sets members of the same family or social group at one another's throats," Girard explains.<sup>181</sup>

In terms of applying this anthropological theory with historical perspective, Blok offers the most accurate and useful exploration of violence spawned by diminishing differences. Examples of these conflicts abound; the first case study Blok presents is that of the American South in the immediate aftermath of the Civil War. "Equality of ex-slaves before the law resulted... in fierce discrimination and the use of extreme violence against them." Blok continues, "Persecution came, in particular, from poor and lower middle-class whites... They feared being put on a par with the former slaves, and derived their identity and self-esteem from their social distance from the black population."<sup>182</sup> In other words, as the socioeconomic differences between these previously-distinct groups disappeared, it became more difficult for non-landowning whites to define themselves against the free black population. The result was horrific violence and lynching at the hands of the Ku Klux Klan.

Virginia City and Bannack saw a similar diminishing of differences in their earliest years. Racially and culturally, the dominant element of the region was similar, but there existed groups of people who had previously been socially and economically distinct – for example, the educated, upper-class lawyers and businessmen like Sidney Edgerton and Thomas Dimsdale who now occupied small, snow-bound communities alongside upwardly-mobile men such as Henry Plummer – faced increasing similarity with one another. In Bannack and Virginia City, resources, from day-to-day needs, social

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<sup>181</sup> Girard, *Violence and the Sacred*, p. 52.

<sup>182</sup> Blok, *Honour and Violence*, p. 124

spaces and power, were limited. Members of previously-distinct socioeconomic groups were suddenly required to share the same resources and space.

Moreover, as similarity in status among men like Plummer, Edgerton and Dimsdale increased, those differences that remained became more important. Civil War sympathies present an apt example; the vigilantes were overwhelmingly Republicans, whereas almost all of their victims were Democrats – including Plummer. As Girard and other authors explain, when large and highly-visible differences among groups disappear – such as race, economic status or religion – less apparent defining features can prove flashpoints of violence.

As differences among once-discrete groups disappeared, and the superiority of the transplanted social status-quo became threatened, the probability of violence in the region increased significantly. Foucault refers to these moments in history when public violence flares up, despite the fact that most of Western Europe and America had rejected such morbid displays. This chapter has attempted to explore the social and cultural contexts that provided an atmosphere to allow one of these explosions. Understanding the possible roots of violence in this context through an anthropological lens allows an understanding of the historical events beyond the highly-moralized campfire version. Moreover, an anthropological perspective on these events allows for an exploration of the multiple layers of myth surrounding the vigilantes, from notions of whiteness, Americanness, Christianity and masculinity. The connections among the sources of violence and these overarching themes offer insight into why the vigilante myth has been remembered in such a specific fashion.

## Chapter 4 - Mythology

*"In History, past and present are similarly indivisible. Performances about the past in History are the present. In History, too, performers are not really divisible from the audience: gossip, the text of the story, is not really divisible from gossiping, the context in which the story is told... text, as History, cannot be divorced from its reading which, public or private, gives context to the expression of meaning."<sup>183</sup> – historian Greg Dening*

The vigilantes' use of violence, as explored in the previous chapter, was a performance. Through sacrificing marginal community members, the vigilantes defined themselves as the social majority and reinforced popular norms and values. The vigilante's conceptualization of morality in both their ends and means, however, did not develop in a vacuum. Rather, the vigilantes and their supporters existed within a larger, national cultural context.

Violence has a unique foothold in American mythology. Stemming from the colonial experience and re-enacted in Western expansion, violence and conflict have been conceptualized and valued differently than in European cultures. The vigilante episode in Montana in 1863-64 must be contextualized in this larger national mythology both to comprehend how the vigilantes understood their own situation and how generations since have preserved and performed the narrative. This chapter will explore the roots of conceptualizations of violence in American mythology and how this mythology and allegorical conflicts may have informed the actions of the vigilantes. It will also posit one

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<sup>183</sup> Dening, *Death of William Gooch*, p. 16.

hypothesis as to why the vigilantes are remembered as heroes through an application and critique of E.J. Hobsbawm's theory of social banditry. In other words, this chapter will couch the vigilante episode within the larger mythological framework of the nation and the frontier.

### **American Mythology**

Each culture has its own unique mythology, and the American nation is no exception. "The concepts of *ideology*, *myth* and *genre* highlight three different but closely related aspects of the culture making process," explains historian Richard Slotkin.

"*Ideology* is the basic system of concepts, beliefs and values that defines a society's way of interpreting its place in the cosmos and the meaning of its history." In other words, a culture's ideology provides the fundamental elements for community decisions, judgments and actions. Slotkin goes on to explain that "In any given society certain expressive forms or *genres*... provide ways of articulating ideological concepts directly and explicitly." In contrast to the explicit nature of genres, myths express a culture's ideology through metaphor. "Myths are stories drawn from a society's history that have acquired through persistent usage the power of symbolizing that society's ideology and of dramatizing its moral consciousness – with all the complexities and contradictions that consciousness may contain."<sup>184</sup> Cultures create a series of individual myths to assemble a full mythological framework to communicate and perform an ideology. "A mythology is a complex of narratives that dramatizes the world vision and historical sense of a people

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<sup>184</sup> Richard Slotkin, *Gunfighter Nation: The Myth of the Frontier in Twentieth-Century America* (New York: Atheneum Press, 1992), p. 5.

or culture," Slotkin explains, "reducing centuries of experience into a constellation of compelling metaphors."<sup>185</sup>

Mythological frameworks first emerge within a society on what Slotkin calls a "sub-literary level." In other words, myths are not decided upon by a singular authority and passed down to the masses, but are generated by a community. Once created and accepted by the majority of a society, artists and writers begin to refine and crystallize the metaphors representing elements of the larger ideology.<sup>186</sup> "A myth is a narrative which concentrates in a single, dramatized experience the whole history of a people in their land," he explains.<sup>187</sup> Apt metaphors and believable myths are, as Slotkin suggests, deeply rooted within the collective history of a community. In the case of the American nation, the colonial experience provided not only this background, but also contributed unique elements to the cultural ideology.

Significant levels of conflict and violence characterized the earliest decades of the American nation. "Euro-American history begins with the self-selection and abstraction of particular European communities from their metropolitan culture, and their transplantation to a wilderness on the other side of the ocean where conditions were generally more primitive than those at home." The colonial experience, as Slotkin suggests, unfolded against a backdrop of adversity. "*Conflict* was also a central and peculiar feature of the process. To establish a colony or settlement, the Europeans had to struggle against an unfamiliar natural environment and against the non-European, non-White natives for whom the wilderness was home." From the earliest phases of the experience of colonization, the European arrivals perceived themselves as pitted against

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<sup>185</sup> Richard Slotkin, *Regeneration Through Violence: The Mythology of the American Frontier, 1600-1860* (Middletown, Connecticut: Wesleyan University Press, 1973), p. 6.

<sup>186</sup> *Ibid.*, p. 4.

<sup>187</sup> *Ibid.*, p. 269.

native tribes and the very wilderness itself. Of course, the conflict against the native populations had very literal iterations as well. As colonists expanded westward, they repeated episodes of violence: "Violence is central to both the historical development of the Frontier and its mythic representation. The Anglo-American colonies grew by displacing Amerindian societies... to advance the fortunes of White colonists. As a result, the 'savage war' became a characteristic episode of each phase of westward expansion."<sup>188</sup>

Railing against the wilderness and its "savage" inhabitants was not the only source of tension and violence in the colonial experience. "Conflict with the Indians defined one boundary of American identity... the other boundary was defined by the emergence of conflicts between the colonies and the 'mother country,'" explains Slotkin.<sup>189</sup> Mark Fearnow's examination of New York in 1741 confirms these sentiments. The inhabitants, as discussed in the preceding chapter, lived in fear of not only the "Six Nations," but also of an array of threats from Western Europe, from the Spanish and French to the Vatican to British authority.<sup>190</sup> This tense relationship with the "mother" continent escalated into the Revolutionary War. "The compleat 'American' of the Myth," observes Slotkin, "was one who had defeated and freed himself from both the 'savage' of the western wilderness and the metropolitan regime of authoritarian politics and class privilege."<sup>191</sup> These sources of conflict "are the core of the American frontier myth – the

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<sup>188</sup> Slotkin, *Gunfighter*, p. 11.

<sup>189</sup> *Ibid.*

<sup>190</sup> Mark Fearnow, "Theatre for an Angry God: Public Burnings and Hangings in Colonial New York, 1741," *The Drama Review*, 40.2 (Summer, 1996), p. 20.

<sup>191</sup> Slotkin, *Gunfighter*, p. 11.

symbolic formulations of the American experience which carried the world view of the first colonists from generation to generation."<sup>192</sup>

Throwing off the authoritarian trappings of Europe and battling back the unforgiving North American wilderness, American colonists fought to define themselves as culturally distinct. Identifying as neither native nor European, "the American felt himself to be the creator of something new and unprecedented... [and] saw himself as exploring new moral grounds, returning to the primary sources of value for a new beginning, a new creation of the moral universe."<sup>193</sup> This context of violence and new creation significantly influenced specific elements of American ideology.

One important example of the impact of violence on American ideology is the notion of what historian Richard Maxwell Brown labels "No Duty to Retreat."<sup>194</sup> According to Brown, justification of lethal self-defense is uniquely American. English Common-law demanded that citizens had the "duty to retreat" when caught in a conflict: "Should your opponent threaten you, you must not defend yourself with violence until you have attempted to get away – to flee from the scene altogether."<sup>195</sup> Brown explains that unless a victim absolutely cannot escape and exhausted all other alternatives to resolve the conflict in Europe, self-defense was not considered legitimate. He claims that this policy stemmed from the state's desire to monopolize lethal violence. The young American nation quickly "repudiated the English common-law tradition in favor of the

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<sup>192</sup> Slotkin, *Regeneration*, p. 23.

<sup>193</sup> *Ibid*, p. 370.

<sup>194</sup> Richard Maxwell Brown, *No Duty to Retreat: Violence and Values in American History and Society* (New York: Oxford University Press, 1991).

<sup>195</sup> *Ibid*, p. 4.

American theme of no duty to retreat: that one was legally justified in standing one's ground to kill in self-defense."<sup>196</sup>

Clearly, the vigilantes were not operating under an ideology placing value on an obligation to retreat. Instead, as discussed in previous chapters, the vigilantes interpreted the existence of a threat in their community as a call to action. They did not wait until they were "back to the wall," but rather sought to utilize violence proactively in order to protect their interests. Brown observes other uniquely American ideological elements that justified vigilante violence, first of which is the "right of revolution." "Vigilante leaders recognized that taking the law into their own hands was, in effect, a revolutionary act against the authority of the state. Of this they made a virtue, claimed revolution as a right, and cited for their precedent the American Revolution of 1776." Brown continues that another important "element in the ideology of vigilantism was popular sovereignty. To Americans of the nineteenth century, popular sovereignty – a favorite concept – meant that the rule of the people was superior to all else."<sup>197</sup>

What is distinctively 'American' is not necessarily the amount or kind of violence that characterizes our history but the mythic significance we have assigned to the kinds of violence we have actually experienced, the forms of symbolic violence that we imagine or invent, and the political uses to which we put that symbolism.<sup>198</sup>

Clearly, American vigilantism emerged within an ideological and mythological context rooted in the colonial experience. Conflict and violence in the earliest phases of settlement provided for ideological concepts of self-defense, the right to revolt against corrupt systems, and the supremacy of popular sovereignty.

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<sup>196</sup> Ibid, p. 4, 5.

<sup>197</sup> Thomas Rose, ed., *Violence in America: A Historical and Contemporary Reader* (New York: Random House Press, 1969), p. 90.

<sup>198</sup> Slotkin, *Gunfighter Nation*, p. 13.

## Proxy Violence

In addition to these conceptualizations of individual and group rights, it is very likely that the colonial model of the "savage war" also influenced the vigilantes' perception of their situation. "The Indian war was at once a current event and a symbol of the primal and genetic strife from which the nation was born," observes Slotkin. In other words, the conflict of the white settler against the wilderness and the Native American endured in a literal fashion, but could never be separated from its symbolic value in the larger American mythology because of its importance to the nation's collective history.

American mythology expanded and evolved as the nation spread westward and faced new challenges. Initially, as Slotkin explains, conflict between individual settlers or families and Native Americans was quite literal. However, as the constant threat of individual conflict with Indians diminished significantly – as was precisely the case in Bannack and Virginia City – the concept became more allegory than actuality. The fight against Native Americans became the business of the government and Army; the citizens of Bannack and Virginia City were not *personally* concerned about conflict with Indians. This is not to say that Indians were not present in Bannack and Virginia City. Some men – as previously mentioned – had taken Indian brides, and others frequently traded with members Bannock tribe who had become connected to the settler economy.<sup>199</sup>

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<sup>199</sup> Allen, *Decent, Orderly Lynching*, p. 78-79. Allen observes that though there were a handful of disagreements with the Bannock tribe – he cites a specific incident in which Charlie Reeves took an Indian bride and treated her quite poorly, causing her to return to her family in an agitated state – the tribe "lacked the numbers and the will to respond" in a violent fashion.

Slotkin observes that this myth of war against "savages" experiences a revision and functions, he explains, by "transferring [the hero] direct from the wilderness to an urban or imperial frontier, where immigrants, strikers, and *insurrectos* were merely allegories of the savage Apache."<sup>200</sup> Once the threat to white settlement in the West was no longer the literal "savage," other minority interests became those impeding economic and social progress. Without the groups that Slotkin refers to as "boundaries" for the white Euro-American communities – namely native populations and Western Europeans – communities sought to continue participation in the mythology by replacing the Indian with another marginalized group.<sup>201</sup>

Slotkin explains the evolving myth of the "savage war"

...as an act of psychological projection that made the Indians scapegoats for the morally troubling side of American expansion: the myth of 'savage war' became a basic ideological convention of a culture that was itself increasingly devoted to the extermination and expropriation of the Indians and the kidnap[p]ing and enslavement of black Africans.<sup>202</sup>

It seems that Slotkin is proposing a concept potentially very deeply connected to ideas of purification through sacrifice, as discussed in Chapter 3. Expansion and colonization of the frontier created moral problems and paradoxes. Perhaps through some level of identification with the myth of the "savage war," the vigilantes felt justified in fighting against those they believed were threatening to impede the progress of the majority. "This modernized Frontier Myth licensed the new hero to repress these dissident classes with the mercilessness belonging to 'savage war' and to govern the defeated without their consent, as if they were children, criminals, lunatics or reservation Indians."<sup>203</sup> Removing

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<sup>200</sup> Slotkin, *Gunfighter Nation*, p. 125.

<sup>201</sup> *Ibid*, p. 11.

<sup>202</sup> *Ibid*, p. 12.

<sup>203</sup> *Ibid*, p. 125.

those who embraced different ideologies or values then served two purposes: reducing resistance to economic and social progress in addition to purifying the moral fabric of the majority.

Richard Maxwell Brown presents a slightly different – and yet very closely related – theory about proxy conflicts in the American West. Brown explores frontier violence collectively under the umbrella concept of the "Civil War of Incorporation." Brown breaks the larger framework of violent episodes down into forty-two different major episodes of violence, but expects that this number is an undercount. Brown agrees with Slotkin that the literal and allegorical conflict against the "savage" is an important theme within a significant percentage of these episodes. "One of the most pervasive alignments within this western civil war set the earliest of all westerners – Indians – against political pressure and military force." The process continued, explains Brown. The enduring struggle pitted those identifying as "American" and defining themselves through membership in the political and economic structure of the young nation against those who, for various reasons, did not have direct interest in furthering white, capitalist expansion.

Brown continues – in concordance with Slotkin – that Indians were by no means the only targets of coercive incorporation. Brown suggests that this violence was leveled against marginalized members of society because they demonstrated little interest in embracing the rapidly expanding white, capitalist domination and urbanization of the West.

Comfortable with turbulence, the recalcitrant had little interest in or sympathy for the incorporating process stressing the aggregation of wealth, the consolidation of capital, and the centralizing of authority at the local, the state (or territory), and the national levels. Ambitious men of property, however,

saw necessity in the task of suppressing – especially in the local realm – those who resisted and exerted a frustrating inertia against what were viewed as the rightful forces of economic and cultural progress: the modernizing of society and the incorporation of power and authority. In consequence, the incorrigible disorder and violence of the outlawed and the alienated was met with the ultimately successful violence of vigilantes and local officers of the law.<sup>204</sup>

American mythology not only encouraged the homogenization and incorporation of power and wealth in the hands of the established elites, argues Brown, but also justified violence as a means to those ends. Removal of less desirable classes – any who did not share a vested interest in replicating Eastern status quo or conditions – removed direct challenges to the consolidation of power.

Theories of proxy targets in the allegorical "savage war" and the "Civil War of Incorporation" are essentially very similar. Both Slotkin and Brown are contextualizing frontier violence within the larger American mythology: a constellation of symbolic representations of values and ideas stemming from the collective history of a colonial experience. The ideology that underlies of this set of symbolic iterations, as these historians explain, not only condones violence as a means to an end, but also ascribes violence cultural clout. In other words, the violent behavior of the vigilantes did not occur within a vacuum, but rather represent several layers of myth in the overarching American mythological framework.

### **Mythology and the Social Bandit**

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<sup>204</sup> Brown, *No Duty to Retreat*, 45-46.

Some of the most mythologized figures from American frontier conflicts are not those on the obvious side of incorporation, but instead, the outlaws who intentionally disrupted the processes of incorporation. Men such as Butch Cassidy, the James brothers and others occupy positions of popularity in the national mythology. This phenomenon – fascination and support of outlaws – is not uniquely American, but is quite apparent in the popular narratives and performances about the frontier experience. Hobsbawm's theory, and revisions thereof by historians including Richard White and Anton Blok, offers insight into why the vigilante episode of 1863-64 happened. Perhaps in this case of vigilantes and road agents, I will argue, it is not the criminals who occupy the role of social bandits, but instead the vigilantes; perhaps because the vigilantes fit the description of social bandits; they not only garnered widespread support from the larger community despite extralegal actions, but earned hero status in regional popular history.

Eric Hobsbawm's 1969 book, *Bandits*, theorizes that across many cultures, outlaws that fit a specific profile are considered "social bandits," and therefore enjoyed considerable popularity within their communities. In a legal consideration, explains Hobsbawm, outlaws are outlaws. However, social bandits are "those who are *not* regarded as simple criminals by public opinion."<sup>205</sup> Hobsbawm seeks to illuminate the patterns by which some criminals are considered merely garden-variety thieves, and some are respected and protected for their social banditry. "Socially, it [social banditry] seems to occur in all types of human society which lie between the evolutionary phase of tribal and kinship organization, and modern capitalist and industrial society," observes Hobsbawm. A frontier community such as Bannack or Virginia City, as previously discussed, can be categorized into the third stage of the Rostovian model: in the

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<sup>205</sup> Eric Hobsbawm, *Bandits* (New York: Pantheon Books, 1981), p. 17.

tumultuous phase of economic development between traditional peasant society and a fully capitalist consumer society.<sup>206</sup> "Banditry... grows and becomes epidemic in times of social tension and upheaval. These are also the times when the conditions for... explosions of cruelty are most favourable," confirms Hobsbawm. Southwestern Montana in the winter of 1863-64, for all of the economic, social and cultural reasons previously explored, absolutely fit this description.

"These are the men who, when faced with some act of injustice or persecution, do not yield meekly to force... but take the path of resistance and outlawry."<sup>207</sup> Instead of submitting to unfair treatment, these men make a conscious decision to step outside the established legal framework in order to uphold a higher justice. Hobsbawm explains, "there is no doubt that the bandit is considered an agent of justice, indeed a restorer of morality, and often considers himself as such."<sup>208</sup> Social bandits were absolutely not greedy brigands, but rather those forced to disobey the law in order to defend something more important.

Richard White, in his 1981 article, "Outlaw Gangs of the Middle Border: American Social Bandits," applies Hobsbawm's theories of social banditry to American examples. "In the American West, stories of this kind have gathered around many historical outlaws: Jesse James, Billy the Kid, Cole Younger, Sam Bass, John Wesley Hardin, Bob Dalton, Bill Dalton, Bill Doolin and more," he explains. "Their appeal, while complex, is not mysterious, and it provides insights into certain kinds of western settlement and social conditions but also into basic paradoxes of American culture

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<sup>206</sup> Rostow, *Economic Growth*, p. 7.

<sup>207</sup> Hobsbawm, *Bandits*, p. 35.

<sup>208</sup> *Ibid*, p. 44.

itself."<sup>209</sup> White argues that outlaws – with special focus on the James Gang, the Dalton Gang and the Doolin-Dalton Gang – emerged from a socially and economically tumultuous context, and acted outside of the law in an effort to enforce justice and restore morality to the region. In other words, White claims, these outlaw gangs gained such popularity during and after their reigns because they were social bandits.

"Again it must be emphasized," claims White, "that what is being praised here is not lawlessness per se. Outlaw stories go out of their way to detach the social bandit from the ordinary criminal." White points out that one extremely important factor for these gangs was their widespread popular support. In the American West, White observes three types of support that outlaw gangs tended to receive: "the kinship networks so important to western settlement in general, active supporters, and those people who can be termed passive sympathizers."<sup>210</sup> The first two categories of supporters are comprised of people who have personal connections with the outlaws: family, close friends, neighbors, etc. The third group – by far the largest – tends to be members of the community at large who do not actively assist the outlaws through material support, but rather silently condone their actions. These are the people who "mourned Jesse James, 'lionized' Bill Doolin after his capture, flocked to see Frank James after his surrender, packed his trial and applauded his acquittal."<sup>211</sup> Without these various sources of support, the gangs would not have functioned nearly as well.

Why would so many openly support criminals? "The simplest explanation, and one advanced by many anti-outlaw writers, was that the bandits' supporters acted from fear. This is not very persuasive," concludes White. He cites examples of positive

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<sup>209</sup> Richard White, "Outlaw Gangs of the Middle Border: American Social Bandits," *Western Historical Quarterly*, 12.4 (October, 1981): 387.

<sup>210</sup> *Ibid*, p. 389.

<sup>211</sup> *Ibid*, p. 392.

contemporary press about the outlaws, and – in a more compelling piece of evidence – doubts that these bandits would continue to command respect and sympathy after their capture or demise if the public really feared them.<sup>212</sup> Hobsbawm's framework supports White's theories about popular approval of outlaws. Social bandits did not prey on the public; instead they acted as outlaws in order to protect the interests and moral integrity of the community's majority.<sup>213</sup> This is why, White argues, these outlaws classify as social bandits.

White does not apply Hobsbawm's theories without critique; Hobsbawm claims that if a society is not a peasant society, real social bandits cannot emerge. "In a broader sense 'modernization,' that is to say the combination of economic development, efficient communications and public administration, deprives any kind of banditry, including the social, of the conditions under which it flourishes."<sup>214</sup> White disagrees. "The shortcomings of a literal reading of Hobsbawm are obvious," he observes. "Jesse James could not be a peasant champion because there were no American peasants to champion."<sup>215</sup> White does offer a revision of Hobsbawm in which he explores the significance of changing contexts of American masculinity, which will be discussed at length later in this chapter. White is not the only writer to urge revision and expansion of Hobsbawm's theories.

Anton Blok levels a challenge against Hobsbawm's analysis regarding the scope of his examples. "Anxious to find additional evidence for his hypotheses, the author [Hobsbawm] avoids discussing the many cases contradicting them." Furthermore, Blok observes that Hobsbawm's "model fails to account for... complexities, and even obscures

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<sup>212</sup> Ibid, p. 391.

<sup>213</sup> Hobsbawm, *Bandits*, p. 42.

<sup>214</sup> Ibid, p. 19.

<sup>215</sup> White, "Outlaw Gangs," p. 394.

them, because he insists on the interpretation of new data in terms of his original model."<sup>216</sup> In other words, Blok believes that social banditry, as conceptualized in Hobsbawm's book, is defined too narrowly. He urges examination of other significant players in the examples of successful banditry; instead of focusing exclusively on the bandits and their peasant supporters, one should more carefully explore the complex relationships among bandits, supporters and local elites. "It may hence be argued that unless bandits find political protection, their reign will be short."<sup>217</sup> Blok offers examples of social banditry that came to an end when the bandits, through their success, actually became members of the ruling elite.<sup>218</sup> They are able to gain this status not through intimidation and fear-mongering, but rather, Blok explains, "they are men who have *made themselves respected*."<sup>219</sup> The connection between the ruling class and the social bandit is, he argues, crucial to understanding the role of the outlaws fully.

Both of these historians, Blok and White, agree that Hobsbawm's theory of social banditry is essentially valid, but is in need of more complex layers of interpretation. The Montana Vigilantes provide just such an opportunity. In this case, the vigilantes pitted themselves *against* the road agents. However, a close examination of Hobsbawm's description of social bandits and their legacies, in addition to Blok's and White's counterexamples and critiques, reveals that in this case, though the reality may have been different, the regional *perceptions* of the vigilantes cast the committee itself as social bandits.

Hobsbawm creates a list of nine traits common among social bandits. "His is the role of champion, the righter of wrong, the bringer of justice and social equity,"

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<sup>216</sup> Blok, *Honour and Violence*, p. 16.

<sup>217</sup> *Ibid*, p. 18.

<sup>218</sup> *Ibid*, p. 19.

<sup>219</sup> *Ibid*, p. 21.

summarizes Hobsbawm, but he more carefully explores specific characteristics of social bandits. First, the social bandit acts outside of the law not by choice, but because he is a victim of injustice without viable alternatives. This is precisely how the vigilantes cast themselves and their duties: they claimed to refuse to live in fear of greedy highwaymen and fall prey to robberies. On a closely related note, the social bandit "rights wrongs." His extralegal behavior is not explicitly self-serving; he does not take from the weak simply for personal gain, but rather allows his action to be guided by a moral compass. Again, this is how the vigilantes perceived their own actions; Dimsdale describes the vigilance committee "holding in one hand the invisible yet effectual shield of protection, and in the other, the swift descending and inevitable sword of retribution..." The members "commanded the brawler to cease from strife; warned the thief to steal no more; bade the good citizen take courage, and compelled the ruffians... to fly the Territory or meet the just rewards for their crimes."<sup>220</sup> In accordance with Hobsbawm's second criterion, the vigilantes perceived their extralegal action as upholding morality and justice above corrupted and inefficient law: they were the "agent[s] of justice" and "restorer[s] of morality."<sup>221</sup>

Hobsbawm's third characteristic of social bandits is their defense of the poor or downtrodden. It is apparent through the texts on the vigilantes that this was absolutely their professed goal: to protect the virtuous, hardworking miners and their families from the villainous thieves. Fourth, the social bandit "never kills but in self-defense or just revenge."<sup>222</sup> Again, this trait is clear in the vigilantes' presentation of themselves; they justified target selection through membership in the alleged gang of highwaymen. They

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<sup>220</sup> Dimsdale, *Vigilantes*, p. 16.

<sup>221</sup> Hobsbawm, *Bandits*, p. 44.

<sup>222</sup> *Ibid*, p. 42.

did not run amok slaying townspeople, but rather carefully removed threats to the community at large.

Fifth, when the social bandit's work is completed, he "returns to his people as an honourable citizen and member of the community."<sup>223</sup> "Since the social bandit is not a criminal," explains Hobsbawm, " he has no difficulty in rejoining his community as a respected member..."<sup>224</sup> The vigilantes, of course, had no trouble remaining members of the Bannack and Virginia City communities. Dimdale explains that the vigilantes, if their extralegal work became unnecessary, would delight in returning to their normal lives:

Gladly, indeed, we feel sure, would the Vigilantes cease from their labor, and joyfully would they hail the advent of power, civil or military to take their place; but till this is furnished by Government, society must be preserved from demoralization and anarchy; murder, arson and robbery must be prevented or punished, and road agents must die.<sup>225</sup>

In regional mythology, the vigilantes completed their task – securing the region from the highwaymen – and returned to their lives as law-abiding citizens.

The social bandit's return to his community is possible in large part because of the sixth trait that Hobsbawm observes: he enjoys widespread admiration and assistance from the general population. As discussed above, White also emphasizes the importance of public support in the cases of the James, Younger and other American outlaw gangs. Clearly the vigilantes enjoyed such support. As discussed in chapter two, very little criticism of the legacy of vigilantism emerged prior to the mid-twentieth century. Moreover, if the vigilantes had faced significant amounts of criticism from within the communities of Bannack and Alder Gulch, it would seem that texts by the anonymous

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<sup>223</sup> Hobsbawm, *Bandits*, p. 43.

<sup>224</sup> *Ibid*, p. 47.

<sup>225</sup> Dimdale, *Vigilantes*, p. 17.

author of *Banditti of the Rocky Mountains*, Nathaniel Langford, and Thomas Dimsdale would include pointed efforts to correct those critics. Dimsdale's text does open with an introductory comment on the author's intentions; he claims that his first priority is to preserve the "correct history of an organization administering justice without the sanction of constitutional law," and indicates that his secondary intention is to "prove not only the necessity for their action, but the equity of their proceedings."<sup>226</sup> The fact that the first chapters of the book explain the basics of life in Rocky Mountain mining towns indicates that the text – introduction included – is not intended for a local audience, but rather for people who had not experienced such places.

Hobsbawm's seventh characteristic of social bandits is less pertinent to the case of the vigilantes than the first six: "... since no decent member of the community would help the authorities against him," the social bandit is only destroyed through treason. Since no element of the vigilante legend engages their demise, this criterion is of limited utility. However, the eighth trait that Hobsbawm lists is quite relevant: the social bandit operates in a manner that makes him "invisible and invulnerable."<sup>227</sup> Social bandits, such as the vigilantes, operated in secret. This secrecy of plans and membership, in addition to the unwillingness of local supporters to betray the organization, grants the group this apparent invisibility and invulnerability. Dimsdale explains,

Secret they must be, in council and membership, or they will remain nearly useless for the detection of crime, in a country where equal facilities for the transmission of intelligence are at the command of the criminal and the judiciary; and an organization on this footing is a Vigilance Committee.<sup>228</sup>

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<sup>226</sup> Ibid, p. 7.

<sup>227</sup> Hobsbawm, *Bandits*, p. 43.

<sup>228</sup> Dimsdale, *Vigilantes*, p. 16.

The anonymous author of *Banditti of the Rocky Mountains* comments on this secrecy as well. "Here we should say that the Committee always held their examinations in secret, and executed in public."<sup>229</sup> This secrecy maximized the efficiency and power of the organization, argue these authors. It seems that the mystery may have added a sense of romance to the episode, contributing to the popular conceptualizations of the vigilantes as social bandits and local heroes.

Finally, as Hobsbawm points out, the social bandit is not the enemy of the large system of authority, but instead against local oppressors. Clearly, this final characteristic applies to the vigilantes. The social bandit, "cannot be in real conflict with the fount of justice, whether divine or human."<sup>230</sup> Hobsbawm goes on to point out that in many cases, the social bandit in fact goes on to reconcile with higher authority. Members of the vigilantes – including Thomas Dimsdale – went on to become active participants in the government of Montana. President Lincoln appointed Sidney Edgerton the first Territorial Governor of Montana in June of 1864. Edgerton's nephew, Wilbur Fisk Sanders, was elected to represent the state in the Senate in 1890. Once Edgerton assumed his position as governor, he appointed Dimsdale Superintendent of Public Instruction.

As both Richard White and Anton Blok indicate, Hobsbawm's theories as articulated in *Bandits* are valuable but too simplistic. The phenomenon of social banditry undoubtedly offers insight into the vigilante episode and its legacy in Montana. Although the vigilantes do not fit the description of American outlaws as social bandits, they represent a different side of the same coin. Rooted in the same overarching American mythology and ideology, the vigilantes elected to act outside of the law in defense of their own rights and justice.

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<sup>229</sup> Anonymous, *Banditti*, p. 107.

<sup>230</sup> Hobsbawm, *Bandits*, p. 53.

## Masculinity and Memory

Richard White's article introduces an important element into the exploration of American social banditry, especially in how later generations remembered men like the James brothers: conceptualizations of masculinity. "The bandit myth is... comprehensible in highly urbanized countries which still possess a few empty spaces of 'outback... to remind them of a sometimes imaginary heroic past, and to provide a concrete *locus* for nostalgia, a symbol of... lost virtue," explains Hobsbawm.<sup>231</sup> White agrees with this notion that the social bandit provides an excellent thematic focus for evolving mythologies in an increasingly urban and industrialized America. Social bandits, White observes,

were ready-made cultural heroes – their local supporters had already presented them in terms accessible to the nation as a whole. The portrait of the outlaw as a strong man righting his own wrongs and taking his own revenge had a deep appeal to a society concerned with the place of masculinity and masculine virtues in a newly industrialized and seemingly effete order.<sup>232</sup>

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<sup>231</sup> Hobsbawm, *Bandits*, p. 131.

<sup>232</sup> White, "Outlaw Gangs," p. 406.

White suggests that the appeal of social bandits is deeply connected to the emerging paradoxes of an industrializing nation. As the passage suggests, conceptualizations of masculinity were shifting as more of the nation became urban.

"Those who seriously worried about masculine virtue in the late nineteenth and early twentieth centuries romanticized toughness, loyalty, bravery, generosity, honor and daring, but sought to channel it into muscular Christianity or college football," White explains. The values of the social bandits were deeply appreciated – as strong, independent men defending the American ideology – but their actions were extralegal and antisocial. This contradiction, White suggests, increased the appeal of the myth of the social bandit; "In this paradox of accepted virtue without an arena in which to exist lay the real power of the outlaws' appeal." White indicates that men in the urbanizing, industrializing America of the late nineteenth and early twentieth centuries identified deeply with the paradox of masculine values with no appropriate context in which to perform them. The myth of the social bandit,

...rather than the childish solutions of reformers who sought to provide for the development of 'masculine' virtues through organized sports... retained the complexity, ambivalence, and paradoxes of a personal experience in which accepted male virtue had little relevance to an industrialized, bureaucratized world.<sup>233</sup>

The myth of the Montana vigilantes, like the examples that White engages, is also profoundly masculine.

The players on the scene were entirely male; in Dimsdale's book, the first direct comment on the female presence in the episode occurs on page 285 in an added postscript by Al Noyes. "And women, too, were there," he reminds his audience. "Do you know what those women were? They were heroines! They were good women – they were the

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<sup>233</sup> Ibid, p. 407.

mothers of men who have since helped to make this no small part of a country we all should love," Noyes explains. The good women deserve credit not for their personal accomplishments, one should note, but instead for their impact on their male counterparts. The men, vigilante and victim alike, are undoubtedly the central players in this story.

As previously discussed, the vigilantes are constantly referred to as good, upstanding, honest, brave and otherwise virtuous. White observes that the classic western myth "poses the hero between contrasting values both of which are very attractive: private justice and the order provided by law, individualism and community, nature and civilization."<sup>234</sup> These paradoxes endured as Montana became a state in the union, grew in population, and became increasingly industrialized. The appeal of the masculine virtues of the vigilantes as social bandits endured, and continues to do so. Perhaps, as White suggests, the myth of the vigilantes remains so popular because Montanans identify with the vigilantes' position: an American population with a cherished ideology and no appropriate contemporary arena in which to perform it.

Montana continues to be a very masculine and conservative society. From rodeos to Republican political rhetoric, it places value in traditional male roles. Given that the culture so fiercely retains these conceptualizations of male virtue, it is little surprise that so many respect the vigilante narrative. More likely than not, Montanans will continue to embrace and reiterate the narrative of the vigilantes as social bandits; the highly-moralized version of the story will be told around campfires for generations to come.

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<sup>234</sup> White, "Outlaw Gangs," p. 407.

## Conclusion

*History belongs to us all, History is us all, in many different ways... Our sense of History is embedded in our different usage. Our different usage is what History is, not what I or you say History should be...*

*We present ourselves by presenting a significant past. Variation in the forms and the readings of those expressions do not detract from the fact that they are significant. We know who we are in our varied ways of History making.<sup>235</sup>*

During a weekend in late July, one can stroll down the main street of Bannack and in fleeting moments, come as close as possible to what the town must have been like in its heyday. One cannot escape the sounds of creaking tack leather and horse hooves on the dusty road, the hissing of steam as the blacksmith dunks hot metal into cool water. The summer heat wrings the scent from sagebrush leaves, and an occasional breeze wafts the sweet smell of creek water and cottonwood through town. In this moment, it is not difficult to imagine that the cluster of unkempt and unshaven men leaning against the flat front of Cyrus Skinner's Elkhorn Saloon is a group of local miners and stagecoach drivers – if one subtracts a few anachronistic adornments like sunglasses – discussing the weather and fragments of news about the war in the East. Henry Plummer, Wilbur Sanders, Sidney Edgerton, George Ives and all the others felt the July heat on Bannack's main street, smelled the sagebrush and cottonwood as horses and wagons shuddered past; it seems that these small pieces of information gathered by the senses alone remain untouched by retelling or symbolic performance. However, the bustle of the town is all a performance of Montana's mythology of its gold mining days. This is Bannack Days: the

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<sup>235</sup> Dening, *Death of William Gooch*, p. 157.

annual celebration of this sliver of regional history, replete with "reenactments" of gunfights, stagecoach robberies and Indian raids.

Of course, many elements of this weekend-long celebration represent not the true past of the place and people, but rather the more popular, mythologized versions. There are a great many visitors dressed in period costume, and among them there are dozens of sheriffs and nary a highwayman to be found. Perhaps one of the most pointed examples of the popularity of vigilante mythology can be found in the souvenirs sold in the old general store. The vendor advertising classic cowboy-style kerchiefs and slides has posters – in the style of vintage "wanted" posters – pinned up to the walls. "You too can be *INNOCENT\**!" read the flyers; beneath the text is a sketch of a dark, scruffy man, apparently a bandit. The meaning of the asterisk is explained at the bottom of the page: "*Innocent*' was the password of the Road Agents, and each wore a kerchief, tied in an unique knot known as the Henry Plummer Knot." Another page, posted nearby, gives customers illustrated directions on how to tie the Henry Plummer Knot properly. Yet another poster mimics a newspaper clipping, with a headline boasting: "Red Yager Confesses All! Reveals Horrid Truth of the Innocents and Vigilantes Prepare his Final Demise! Secret Word, Knot Veiled Identities of the Villainous Assemblage!"

The posters and the kerchiefs invite visitors to become part of the legacy of the road agents and the vigilantes. Even the campgrounds at Bannack State Park offer a similar invitation: one can select a site in either the Vigilante Loop or the Road Agent Loop. Each iteration of the myth presents the same moral distinctions. The Road Agents were the classic villains, sinister and cruel. The vigilantes were the unequivocal heroes. The version of the myth that both hosts and visitors present and perform in Bannack, both during Bannack Days and on quieter weekends, does not contain any questions or

challenges to the pro-vigilante narrative, but rather embraces the vigilantes as social bandits and regional heroes.

As discussed in the earlier chapter on the episode's historiography, many authors continue to embrace and defend the myth. Likewise, Montana institutions continue to utilize the myth as a narrative of self-definition. A fascinating – and deeply ironic – example is the Montana Highway Patrol's decision to include a direct reference to the vigilantes on their organizational logo.

After the perceived success of the vigilantes around Bannack and Virginia City, in addition to the widely-publicized episodes of vigilantism in California, other vigilance committees organized themselves in the following years. These later Montana vigilante groups, Frederick Allen claims, have been "conveniently and almost totally ignored."<sup>236</sup> This is without question an exaggeration; later vigilance committees including "Stuart's Stranglers" and their campaign against horsetheives are remembered well in Montana. A group in Helena circa 1882 adopted a tactic from vigilantes in California; they would chalk the numbers 3-7-77 onto the doors or tent-flaps of men they wished to depart town.<sup>237</sup>

The origin and specific meaning of the numbers are contested. One popular explanation is that the numbers represent the dimensions of a grave: three feet wide, seven feet tall and seventy-seven inches deep. Other theories claim that the numbers have Masonic significance, which seems more likely. Some historians attempt to trace these numbers to the first group that organized themselves in Virginia City to hunt down George Ives. This explanation is completely anachronistic and incorrect. The few years between the vigilantes in Bannack and those in Helena seem irrelevant to the myth; many

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<sup>236</sup> Allen, *Decent, Orderly Lynching*, 360.

<sup>237</sup> *Ibid*, 358.

Montanans, including the Highway Patrol, associate the numbers with the original vigilantes.

In 1956, freshly-promoted superintendent Alex Stephenson designed a new insignia for the Montana Highway Patrol. In the center of the logo are the golden-yellow digits 3-7-77. According to the Department of Justice website, "The historic 3-7-77 was added to the shoulder patch by then-Chief Stephenson. The emblem is a tribute to the Vigilantes, the first law enforcement group in the Montana Territory."<sup>238</sup> The decision to include this direct – if not historically accurate – reference to the vigilante myth is a deliberate performance of this Montana identity narrative.

This thesis has attempted to explore the legacy of vigilante mythology in Montana, from the evolution of the story in popular and academic memory, to the anthropological context in which the events likely unfolded, to an analysis of how the myth fits into theories about the larger framework of American mythology. The first chapter examined the limited information available on Henry Plummer's background and time in Bannack in order to create reasonable doubt regarding his outlaw status. Plummer, while he undoubtedly had a quick temper and pistol, may well have been innocent of the crimes of which the vigilantes accused him. This room for doubt indicates that the manner in which the episode is remembered is a deliberate choice; popular recollections overwhelmingly tend to favor the vigilantes.

The second chapter explored how this memory has evolved in print from the earliest texts by Dimsdale, Langford and others to the handful of revisionist texts published in the 1990s. The chapter traces these changes against the backdrop of shifting

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<sup>238</sup> Montana Department of Justice: "History of Montana Highway Patrol": <http://www.doj.mt.gov/enforcement/highwaypatrol/history.asp> (accessed April 18, 2009).

American conceptualizations of violence and loyalty; the notion of citizen vigilance held significant popularity in the early twentieth century, but lost sway as the nation witnessed the disturbing violence of the Vietnam War and domestic race riots. As discussions regarding the rights of the accused began to emerge, congress passed legislation such as the Miranda Act, and intellectuals found a new platform from which to criticize the extralegal executions carried out at the hands of the vigilantes.

The third chapter examined the anthropological and sociological theories of social development and civil violence in order to understand the cultural context in which this episode occurred. Relying on theories of violence, punishment and authority as proposed by Michel Foucault, Mark Fearnow and Anton Blok among others, this chapter considers the social, economic and cultural significance of public execution and sacrifice.

Participants in the vigilance committee were not random, nor were their victims. Execution of specific targets in a highly-public fashion served purposes of deterrence, purification and symbolic self-definition; the violent performance defined and reinforced the values and ideology of the social majority in the region.

The final chapter explored how national ideology – specifically the collective history of the colonial experience – informed the values and actions of the vigilantes. Conflict against both the natives and wilderness as well as against European powers created unique standards and elements in American ideology, such as rights of revolution and self-defense in addition to enduring concepts of the "savage war." This chapter also analyzes how the vigilante myth has come to occupy its own place within the larger American mythology. Theories on social banditry – as articulated in texts by Eric Hobsbawm, Richard White and Anton Blok – present a compelling argument as to why this incident of extralegal violence is heralded as virtuous. As social bandits, the

vigilantes have come to represent the masculine struggle through the paradoxes of industrialized society, and retained their popularity as heroes in the region.

While this analysis is by no means a definitive account of the vigilantes and road agents in Bannack and Virginia City, it is my hope that this thesis has illuminated fresh perspectives on the episode. The mythologized version of the story is, without question, compelling, and will very likely linger around Montana campfires for generations to come. However, exploration of the event's many contexts – national, economic, social, cultural, political – offers more than a morality tale. It reveals insights into American self-definition, ideology and mythology. How we choose to remember the episode, how we elect to retell it, and what we allow its players and events to represent can vary. Regardless, each time it is told or performed, it offers profound insight into the storytellers and the audience alike.

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