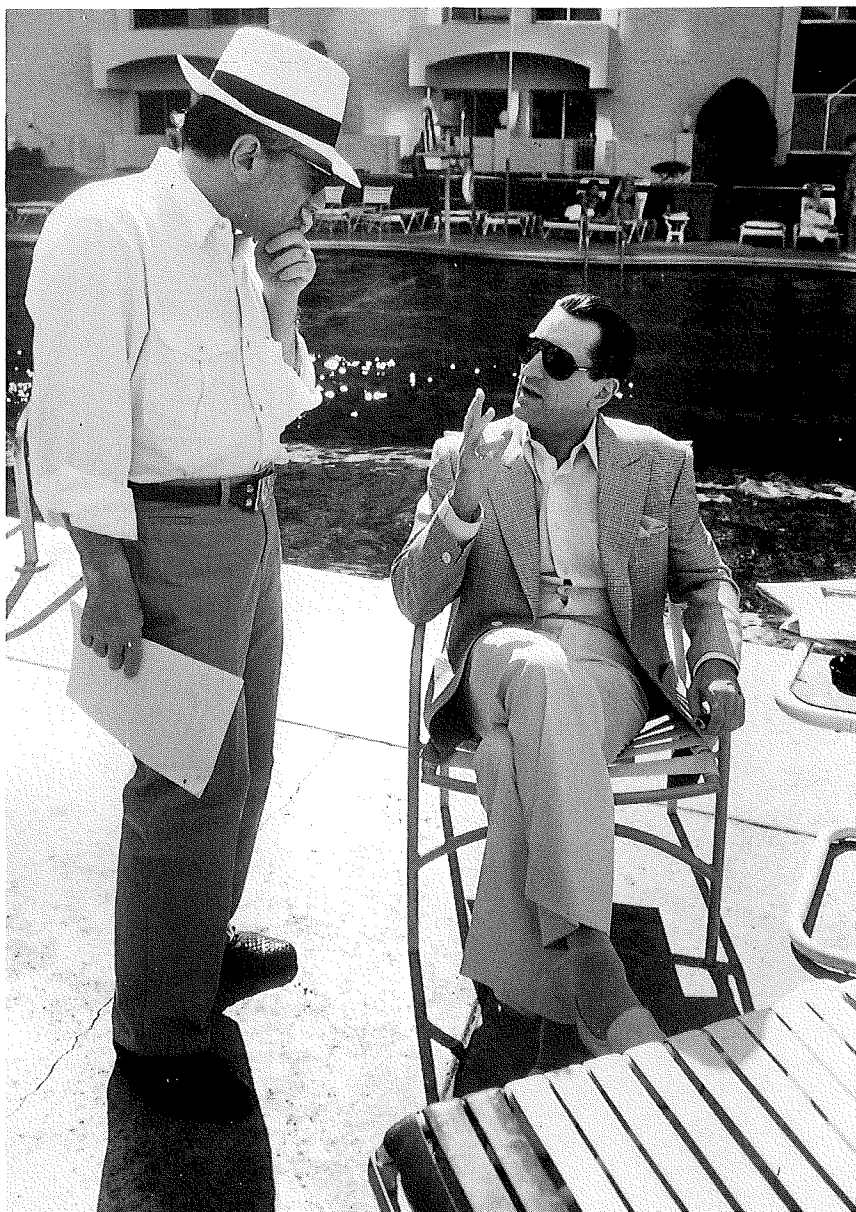


Nevada

Historical Society Quarterly



SPRING 1996

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Contents

- 1 Law, Politics, and the Movement toward Constitutional Equality in Nevada: The Revolution in Legislative Apportionment—Part I
GARY E. ELLIOTT
- 20 A Mine, the Military, and a Dry Lake: National Security and the Groom District, Lincoln County, Nevada
GARY PAINE
- 43 Ethnicity and Class: The Italian Charcoal Burners' War, 1875–1885
BRIAN FREHNER
- 63 **Notes and Documents**
James Warren Nye
GEORGE P. NYE
- 73 **Book Reviews**
- Front Cover:** Director Martin Scorese with his star Robert DeNiro during the filming of *Casino*. (Photograph by Phil Caruso. Copyright © 1995 Universal Studios Inc.)

Book Reviews:

- 79 Nicholas Pileggi, *Casino: Love and Honor in Las Vegas*
reviewed by Jerome E. Edwards
- 82 Universal Pictures, *Casino*
reviewed by Howard Rosenberg
- 84 John L. Brooke, *The Refiner's Fire: The Making of Mormon
Cosmology, 1644–1844*
reviewed by Bruce T. Moran
- 87 Michael Delo, *Peddlers and Post Traders: The Army Sutler on
the Frontier*
reviewed by Michael J. Brodhead

LAW, POLITICS, AND THE MOVEMENT TOWARD CONSTITUTIONAL EQUALITY IN NEVADA

The Revolution in Legislative Apportionment Part I

Gary E. Elliott

Reapportionment of the Nevada state legislature occurs during the first session after the decennial census. Today it is a relatively mild political struggle compared to the hysteria that greeted the process thirty years ago. Indeed, given the intensity of the discourse, it is difficult to find a greater convulsion in the political history of the state. Dispassionate and practical reason were nowhere to be found because the state's political leaders either were paralyzed by fear or capitalized on anxieties about federal domination. Understandably, the supporters of one person, one vote, articulated by Chief Justice Earl Warren in *Reynolds v. Sims* (1964),¹ were few and far less vocal than critics such as Lieutenant Governor Paul Laxalt, who took pains to remind Nevadans that their enemy was the United States government. Meanwhile, Nevada's United States senators, Alan Bible and Howard Cannon, publicly refused to support the high court's decision, while Governor Grant Sawyer neither approved nor disapproved, preferring instead to seek shelter by calling the whole matter a legal issue better left to the courts.²

Critics took the initiative and called for a constitutional amendment to limit the Supreme Court's power to review cases involving apportionment of state legislatures. No one commanded the high ground in the political debate, leaving the field open to those speculating and fomenting fears about the political tyranny of Washington. Little was said about the Court's reasoned analysis of the theory

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of equality in the political process, which had become virtually unrecognizable since the end of Reconstruction. And no other viable political theory emerged to challenge that analysis. Instead, critics such as Laxalt resorted to impressionistic complaints about the Court's role in the democratic process.

The battle over reapportionment might be expected to have become a political football. But it deserves study for more than that reason alone, for it was also a political milestone. The reapportionment of the Nevada legislature changed its dynamics of power by substantially increasing the numerical strength of Las Vegas and southern Nevada. At the same time, the postwar boom turned the gaming and tourism industry into the cornerstone of Nevada's economy, and the federal government financed the Southern Nevada Water Project, which made it possible for Las Vegas to grow. Taken together, they meant that the state's political and economic center would not be the Comstock region, as it had been late in the nineteenth century; or the Tonopah-Goldfield area, as it had been early in the twentieth century; or Reno, as it had been from the 1910s until the 1960s. It would, indeed, be southern Nevada.

Reapportionment in Nevada also provides a useful mirror of the western mind, and perhaps the American mind. In the 1970s and early 1980s, and again in the mid 1990s, many westerners have opposed the control of the federal government, especially over public lands. Their claims, often grouped under the somewhat misleading title of Sagebrush Rebellion, are rooted in the same distrust of the federal government and misunderstanding of sovereignty under the United States Constitution as are other dissident acts such as the formation of militia groups and the bombing of the Alfred Murrah Federal Building in Oklahoma City. This hatred for all things federal may also be traced to the legacy of the Vietnam War and Watergate, which United States Senator William Fulbright called the arrogance of power and a history of deception and corruption.

But for much of the twentieth century, the federal government has been a friend of the West, through such beneficial measures and acts as the Newlands Reclamation Act, the New Deal, expenditure in World War II, atomic test programs and nuclear research, military bases, and military research projects. To the westerner, the federal government was good as long as it gave, but reapportionment represented interference, and that was a completely different matter.

The Constitution: Theory and Practice

Representative equality, based on the sovereignty of the people, is the linchpin of republican theory. The founding generation of Americans were all too familiar with rotten borough representation in the English Parliament, which did not recognize the locus of sovereignty in a popularly based constituency.³ Even as the delegates met in Philadelphia in 1787, reminders of political inequality reverberated in Congress: Acting under the Articles of Confederation, it passed

the Northwest Ordinance to ensure that newly created states would have legislatures based on proportionate representation. Similarly, between 1790 and 1889, no state entered the Union without guaranteeing that its legislature would be based on population. In fact, thirty-six of the original state constitutions required that representation in both houses of the legislature be based on population.⁴

The admission of new states is both a legal and a political decision; Nevada is a classic case of political considerations trumping the legal requirement for a minimum population to qualify for admission.⁵ Similarly, the United States Constitution is a delicate balance of legal and political theories and practices that the framers expected the separate branches of government to be able to work within.

This explains the appeal among the framers, of the department theory of constitutional interpretation, which has led to considerable misunderstanding. The department theory leaves to each branch of government the responsibility for interpreting the Constitution within that branch's sphere of authority. Thus, the judicial branch resolves legal issues, with political matters left to the executive and the legislature.⁶ But there is no bright line defining what is a legal question as opposed to what is a political dispute, an ambiguity that contributed significantly to the confusion in 1964.

Chief Justice John Marshall understood that political issues would come before the Supreme Court for resolution. But what distinguished the judiciary from the other branches was that these issues would be resolved within a legal framework; that is, the issue was set as a legal question concerning the relative merits of the opposing parties. As a result, the Court was not an ad hoc legislature, but was restrained in its action until the parties framed a legal issue for it to settle.⁷ The nature of the Court's work and its role in the governing process differed qualitatively from the other branches of government.

Consequently, the Supreme Court has refused to become embroiled in purely partisan political matters. Thus was born the "political question doctrine," which judges interpreted from the article III cases-and-controversies requirement in order to avoid entanglement in political disputes. But Marshall clearly understood that legal decisions have political consequences. In *Marbury v. Madison*,⁸ certainly a case with political implications, Marshall said, "The province of the court, is, solely to decide on the rights of individuals."⁹ Marshall would not avoid political questions, particularly when they involved constitutional issues requiring articulate and reasoned analysis of national power. Thus he incurred the wrath of state court judges such as Virginia's Spencer Roane, who saw tyranny lurking behind every Supreme Court decision upholding federal power.¹⁰

Nearly half a century later, in 1849, the Court of Chief Justice Roger Taney avoided entering the crass "political thicket" in *Luther v. Borden*,¹¹ a decision which has been mistakenly interpreted as restraining the Court from resolving

disputes having political consequences. The issue in the *Borden* case was an action for damages in trespass. In order to decide the case, a determination was necessary as to which of the contending governments of Rhode Island was legitimate. This was understandably beyond the Court's capacity, and required a resolution of disputes not before it in a legally framed question.

Luther v. Borden, if anything, lends credence to Alexis de Tocqueville's often-quoted observation: "Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question."¹² Political questions can be constitutionally resolved if properly framed. The political question doctrine acts as a self-imposed restraint on the Court until it faces an issue requiring exposition of a background right, as in the reapportionment cases. That is why it retained its vitality even in 1946, when Associate Justice Felix Frankfurter, in *Colegrove v. Green*,¹³ restated the Court's disdain for political issues. But Frankfurter's jurisprudence that subordinated substance to procedure, partially to limit judicial power, would give way in the 1950s to the jurisprudence of representative democracy of Chief Justice Earl Warren and Associate Justice William J. Brennan. The result was a redefinition of what constitutes a political question.

Nevada, 1864 to 1962

Nevada entered the Union on October 31, 1864, in time to join in the debates on Reconstruction policy and contribute to the legacy and lore of the Gilded Age. In constitutional terms, Nevada became a state as classical liberalism reached its high-water mark. Classical liberals reasoned that political liberty, or the absence of arbitrary rule by one person or group, was best maintained in a decentralized political state, and that central authority posed the greatest danger to civil liberty.¹⁴ However, Nevada's political tradition, like that of most states of the American West, demonstrates the illusory character of the wisdom and utility of classical liberalism. Throughout the nineteenth century, Nevadans were dominated by mining and railroad interests, and for most of the twentieth century by mining and stock-raising interests—largely arbitrary rule by a small group left unregulated by the state.

The constitutional fidelity to decentralization, *laissez faire*, and majoritarianism began a slow, uneven but inexorable decline with the passage of the Civil War amendments. While the Supreme Court consistently maintained in the late nineteenth century that the Fourteenth Amendment had not changed the nature of the Union,¹⁵ the equal-protection clause was to provide the underpinnings for a progressive insistence on the need for government to assert itself in promoting equality. Still, the notion of equal protection and the positive role of government remained just that—a notion. Decentralized authority—that is, the division of power between the national and state governments—combined with rural unity and a hatred for cities to disenfranchise urbanites for nearly a century.¹⁶

The Jeffersonian legacy of the moral superiority of rural America, and its

abhorrence of urban life, had deep and enduring roots in American political culture and in Nevada. In fiction, and in fact, cities of the late nineteenth century were portrayed as cesspools of political corruption. But these critics took Jefferson a step further and put much of the blame on the flood of immigrants from non-Protestant countries of Europe; these new arrivals were at fault for refusing to conform to stock American values of thrift, honesty, and hard work. Rural lawmakers, supported by social and political reformers, moved swiftly to control actual and perceived urban blight through domination of the political process.¹⁷

Nevada followed the national trend in contravening its organic law. Like other states admitted to the Union between 1790 and 1889, Nevada had a constitution which provided that "representation shall be apportioned according to population" (article 1, section 13). It further mandated: "The census taken every ten years shall serve as the basis of representation in both houses of the legislature" (article 15, section 13). In 1915, the legislature instituted what is commonly known as a "little federal plan," whereby each county within the state had one representative in the upper chamber (the Senate), while representation in the lower house (in Nevada's case, the Assembly) was based on population. From 1915 to 1965, the Nevada legislature adhered to the little federal plan, in flagrant violation of article 1, section 13 of the state's constitution.¹⁸

Clearly, 1915 proved to be pivotal in perpetuating Nevada's malapportioned legislature, and rural bias was the motivating factor. From 1860 to 1910, the state's urban population fluctuated with the boom-and-bust cycle of mining. However, beginning in 1920, the percentage of urban to rural population increased every decade, from 19.7 percent in 1920 to 88.3 percent in 1990 (Table 1).

The concentration of growth in urban Nevada met intensified legislative attempts at mid century to maintain rural hegemony in the lawmaking process. By 1950, Nevada's urban population had exceeded its number of rural residents for the first time, 52.5 percent compared to 47.5 percent. The legislature quickly took steps to confirm the little federal plan by amending article 4, section 5, of the state constitution to provide for equal representation of counties in the Senate, and at least one seat for each county in the Assembly. Voters ratified this action the same year. However, the legislature failed to amend article 1 or article 15, which left these two key provisions of the constitution in sharp conflict with article 4.¹⁹

The 1960 census confirmed the accelerated pace of urban growth and the inequity of the little federal plan. For example, Clark County had 127,016 residents, or 44.5 percent of the state's population. They were represented in the legislature by one senator and twelve assemblypersons. By contrast, Storey County, with a population of 568, was served by one senator and one assemblyperson. The comparison of representation in terms of the ratio of voters between Clark and Storey counties was 223:1 for the Senate and 19:1 for the Assembly.²⁰ Two years later, Clark County accounted for 53

TABLE 1
Urban Versus Rural Population, Nevada and the United States
(in percentage)

Year	Nevada		United States	
	Urban	Rural	Urban	Rural
1860	0.0	100.0	19.8	80.2
1870	16.6	83.4	25.7	74.3
1880	31.1	68.9	28.2	71.8
1890	33.8	66.2	35.1	64.9
1900	17.0	83.0	39.7	60.3
1910	16.3	83.7	45.7	54.3
1920	19.7	80.3	51.2	48.8
1930	37.8	62.2	56.2	43.8
1940	39.3	60.7	56.5	43.5
1950	52.5	47.5	64.0	36.0
1960	70.4	29.6	69.9	30.1
1970	80.9	19.1	73.5	26.5
1980	85.3	14.7	73.7	26.3
1990	88.3	11.7	75.2	24.8

SOURCE: Ron DePolo and Mark Pingle, "A Statistical History of the Nevada Population, 1860–1993," *Nevada Historical Society Quarterly*, 37:4 (Winter 1994), 300.

percent of the state's population, but, with only one out of seventeen seats in the Senate, it received only 5.9 percent of the senators. The county fared somewhat better in the Assembly, with twelve out of thirty-seven seats, or 32 percent of the lower chamber.²¹

Predictably, in 1961 the Nevada legislature carried out its reapportionment responsibilities in a manner best calculated to ensure rural dominance. The little federal plan for the Senate remained in place. However, the number of representatives in the Assembly was reduced from forty-seven to thirty-seven, giving the rural counties an even greater percentage of the representatives than if the total had remained the same. Thus, although Clark and Washoe counties had 75 percent of the state's population, they were given only 57 percent of the Assembly seats (twenty-one of thirty-seven).²²

Nevada's 1961 reapportionment plan confirmed the state's image as a rotten borough controlled by a rural oligarchy more interested in protecting its cultural and economic interests than in representing the wishes, desires, and aspirations of the majority. What was occurring in Nevada was symptomatic of western attitudes generally, with the lone exception of Oregon. No western state legislature provided for population-based representation in both houses. In reality, the region was one huge rotten borough with an intellectual commitment to the

little federal plan, which was designed simply to deny representative government to a majority of the population.

The Apportionment Revolution

Constitutional interpretations in the 1950s derived from the main currents of turn-of-the-century sociological jurisprudence, 1930s legal realism, and the constitutional revolution of 1937 in which the Court began to accept New Reforms. However, in the post-World War II period, the democratic theory re-emerged as an intellectual brake on the growing power of the judiciary, or what Harvard Law School's Professor Raoul Berger has termed the imperial judiciary. Democratic theory advocates such as Professor Herbert Wechsler, of Columbia University Law School, stressed that judges were not legislators and should not act in a way that usurped the popularly elected branches of government. In short, the Court should not be willing to do what the people's representatives refused to do, and instead should decide cases based on neutral and durable principles. And for democratic theorists, the people are sovereign, and therefore their representatives partake of that sovereign legitimacy.

But process jurisprudence based on democratic theory could not hold back the rising tide of intellectual commitment to social responsibility that had been gathering momentum before the war and continued in the immediate postwar years. Colleges, universities, and law schools influenced the thinking of future policymakers with respect to their obligations to society in general and to the improvement of the substance of people's lives.²⁴ The impact on the course of American constitutionalism was profound. Judicial review became the vehicle for substantive social change, allowing justices to break down barriers and construct a more open society based upon egalitarian principles. In the words of Yale Law School's Professor Eugene Rostow, "Judicial review is part of a living constitution and a working part of the democratic political life of the nation."²⁵ For Rostow and others of like mind, substance was more important than process because judicial review could be used to create a more open and fair society when the other branches of government proved unresponsive. What was vital in the long run was the end to unequal treatment, not how it ended. In short, a rejection of democratic theory occurred, replaced by reliance on constitutionalism to achieve the ultimate civil purpose of protecting individual liberty against both private citizens and public officials.²⁶

Chief Justice Earl Warren and Associate Justice William J. Brennan became the architects of constitutionalism in the period following World War II. They steadily steered the Supreme Court away from process-minded justices such as Felix Frankfurter and John Marshall Harlan. Beginning in 1958, following the public school desegregation case of *Brown v. Board of Education of Topeka, Kansas*²⁷ and southern efforts to nullify it, the court in *Cooper v. Aaron*²⁸ said flatly that the Supreme Court was the ultimate interpreter of what the Constitution means.

In reaching this unanimous conclusion, the justices quoted at length what Chief Justice John Marshall had said in *Marbury v. Madison*, specifically, that the Supreme Court was the supreme expositor of the law.²⁹ This is a clear expression of the Court's duty and power: to interpret the law regardless of the actions taken, or not taken, by the other two branches of government.

Four years after *Cooper v. Aaron*, the court revisited its decision in *Colegrove v. Green* on the political question issue. The case arose in Tennessee under apportionment conditions very similar to those then in existence in Nevada. Urban voters brought suit against the state because the legislature had failed to reapportion its election districts after 1901, although the state constitution required representation in both houses of the legislature to be based solely on population. The state courts refused to pass judgment on the issue, driving the plaintiffs to federal court for relief. The district court dismissed the action for lack of a remedy—and of the power to impose one. In their appeal to the Supreme Court, the plaintiffs argued that the actions of the Tennessee legislature violated the equal-protection clause of the Fourteenth Amendment. In *Baker v. Carr*,³⁰ Justice Brennan, without reaching the merits of the case, said the issue of malapportionment of a state legislature is a *justifiable* cause of action under the equal-protection clause of the Fourteenth Amendment. Thus, the federal courts had jurisdiction. Brennan, speaking for the 6 to 2 majority, remanded the case to the district court for resolution on the merits of the suit. In substance, *Colegrove* had been overruled and with it, process jurisprudence.

The difference between Frankfurter's rationale in *Colegrove* and Brennan's in *Baker* was Brennan's focus on the individual and on the substantive issue of voting rights, rather than Frankfurter's emphasis on process and deference to elected legislative majority. Brennan's argument was carried over a year later in the analysis of Justice William O. Douglas in *Gray v. Sanders*,³¹ which struck down Georgia's unit rule for counting votes in the Democratic primary as a violation of the equal-protection clause of the Fourteenth Amendment. In his opinion, Justice Douglas first announced the now famous principle of "one man, one vote."³²

Following the "one man, one vote" in *Gray v. Sanders*, the Court moved to include congressional districting practices within its orbit. In *Wesberry v. Sanders*,³³ Justice Hugo Black's majority opinion held that article I, section 2, of the United States Constitution dictates that representatives "chosen by the voters" means that one man's vote must be worth as much as another's. The solicitor general had urged the Court to decide the case on the equal-protection clause of the Fourteenth Amendment and to encompass the question of equality of apportionment in state legislatures within its ruling.³⁴ By structuring the decision on article I, instead of on the Fourteenth Amendment, the *Wesberry* decision did not dispose of the issue of apportionment of state legislatures. But with more than thirty suits pending against state legislative apportionment schemes, the high court could pick the case and time to implement its one person, one vote rationale.

Within two years *Reynolds v. Sims*³⁵ gave the Court its opportunity. The case involved a challenge to the apportionment of the Alabama legislature, which was similar to that of Nevada. In their oral argument before the Court, plaintiffs stressed the lack of other remedies available because state lawmakers refused to reapportion the legislature as required by the state constitution. Archibald Cox, solicitor general of the United States, supported the plaintiffs and placed the burden on the states to justify the inequities in their apportionment practices.³⁶ Chief Justice Warren, speaking for the 6 to 3 majority, agreed, finding that the states had not met their burden: The equal-protection clause of the Fourteenth Amendment required that both houses of a state legislature must be apportioned based solely on population. State reliance on the little federal plan, the rationale for malapportionment, was specifically rejected.³⁷

Implicit in Warren's argument in the *Reynolds* case is the political philosophy of a constitutional democracy based on popularly chosen representatives with limited government. The underlying principle in a constitutional democracy is the sovereignty of the people, not the state, together with a prohibition on restrictive state judgments of worth. This was exactly Warren's point: "Voters cannot be classified . . . on the basis of where they live . . . the fundamental principle of representative government in this country is one of equal representation for equal numbers of people."³⁸ Warren further observed, "Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, the right to elect legislators in a free and unimpaired fashion is the bedrock of our political system."³⁹

No clearer statement of constitutionalist principles of representative democracy could be made. As David A. J. Richards has noted in his lengthy treatment of the subject, the "American constitutional tradition embodies republicanism, and the equality of all persons which expressly constrains state power with substantive limits that respect equal rights."⁴⁰ When a legislature is malapportioned, the state is exercising certain judgments of worth rather than providing equal treatment and respecting rights exercised through the democratic process. Again, Warren stated, "The concept of equal protection has been traditionally viewed as requiring uniform treatment of persons."⁴¹ That is why Warren had little trouble in dismissing Alabama's charade as an "after the fact rationalization"⁴² of the little federal plan.

In striking down the little federal plan, Warren severely undercut the status quo and the interest groups that benefitted from inequality in voting rights. Its critics saw the little federal plan as simply a scheme to restrict the power of urban-based constituencies. Its advocates said that it mirrored, in constitutional terms, the role of the United States Senate in the legislative process. Specifically, malapportioned legislatures were acceptable because they provided equal representation for each county in the state, just as the United States Senate also represents political units. Warren found the analogy between the United States

Senate and state senates that represent counties fallacious. States are unitary in nature, rather than federal. More to the point, counties are the legal agents of the state, and their existence as political subdivisions is a matter of state sufferance, not at all similar to states under the system of federalism embodied in the Constitution.⁴³

Warren moved quickly to slam the door on attempts to circumvent *Reynolds v. Sims*. In a companion case decided the same day, *Lucas v. The Forty-Fourth General Assembly of the State of Colorado*,⁴⁴ the Court struck down a successful 1962 state initiative that would have allowed apportionment in one house of the Colorado state legislature to be based on factors other than population. Speaking again for the Court, Warren held that constitutional rights—in this case the individual right to equal protection of the law—could not be infringed by the majority, even through the ostensibly democratic initiative process. Again, this is Warren the constitutionalist reinforcing representative democracy.⁴⁵

Warren's reading of the equal-protection clause commanded a majority of the Court, but not all. Associate Justice John Harlan dissented in all six reapportionment cases. Like Warren, Harlan did not state a specific political theory to support his contention that the Court had erred in its judgment. Instead, Harlan noted that the Court was applying a particular version of democratic theory not found in the text, practice, or history, and that unelected judges were imposing it. Harlan also stated that no one believed that equal protection "limited the power of the states to apportion their legislatures as they saw fit."⁴⁶ Harlan found considerations such as a state's history, group interests, economic interests, area, balance of urban and rural power all legitimate considerations in apportionment. In supporting his position, Harlan said, "I know of no principle of logic or practical or theoretical politics, still less any constitutional principle, which establishes all or any of these exclusions."⁴⁷

Associate Justices Potter Stewart and Thomas Clark, both part of the majority in *Baker v. Carr*, dissented from the majority opinion in only the Colorado and New York cases. Stewart began his assault on the majority reasoning by observing, "My own understanding of the various theories of representative government is that no one theory has ever commanded unanimous assent. I could not join in the fabrication of a constitutional mandate which imports and forever freezes one theory of political thought into our constitution."⁴⁸ He then added, "Representative government is a process of accommodating group interests through democratic institutional arrangements . . . [of] effective representation in the state legislature of various groups and interests making up the electorate. The fact is, of course, that population factors must often to some degree be subordinate in devising a legislative apportionment plan which is to achieve the important goal of ensuring a fair, effective, and balanced representation of regional, social, and economic interests within a state."⁴⁹

The Stewart and Clark dissents, in contrast to Warren's constitutionalist philosophy, did advance a political theory and reasoning reminiscent of John C. Cal-

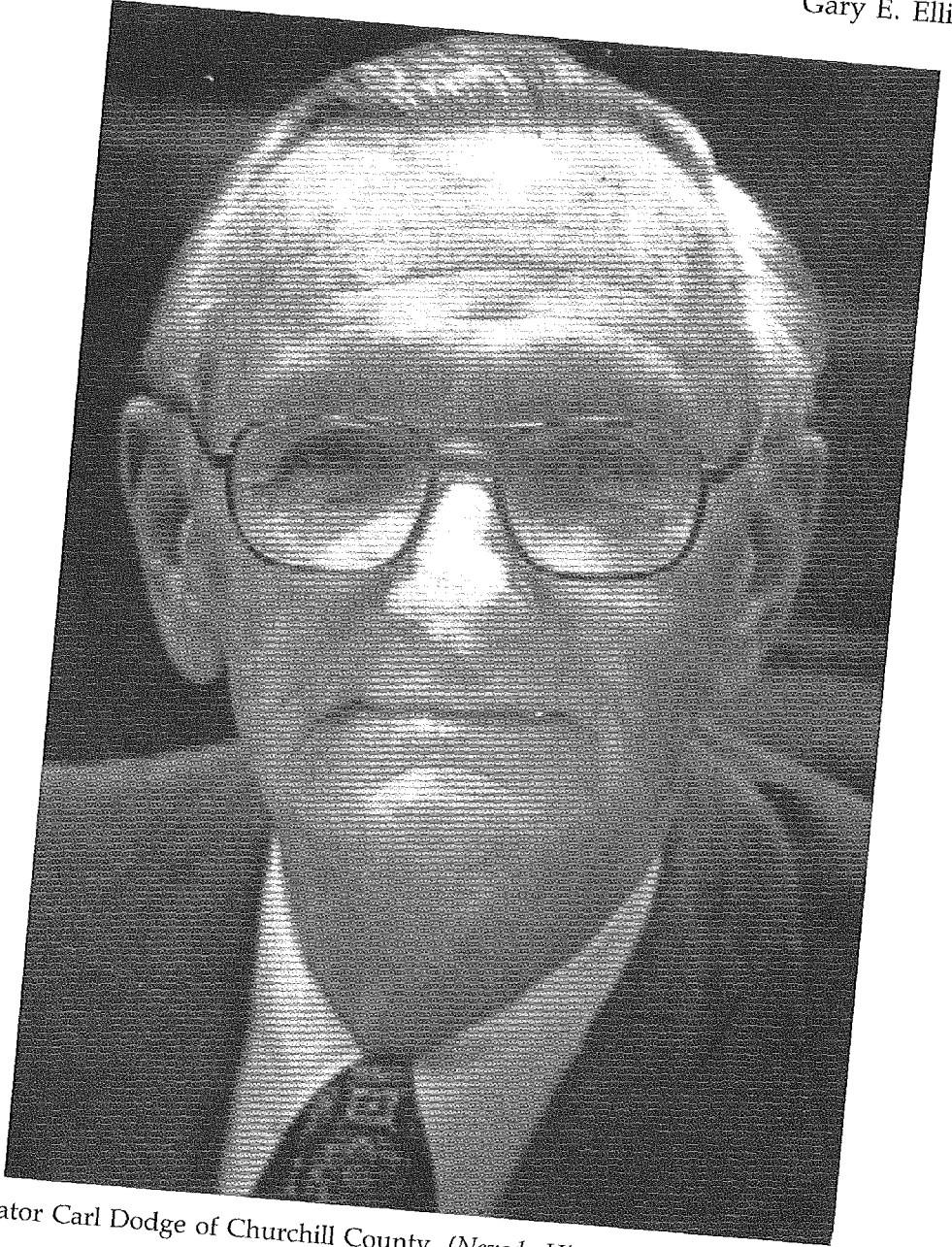
hour's concurrent majority. Indeed, the wording of the dissenting opinions would have heartened Calhoun, who insisted that government must represent all interests.⁵⁰ The Calhoun rationale adopted in the dissenting opinions is the baseline belief that every interest must be represented and that any government action or policy requires the approval of all, including a majority of the people. Each group or interest, therefore, has a trump on the activist policy of the government. This was a significant departure from the representative democrat who sees all power as vested in the people through the ballot. For the pure representative democrat, the people's elected representative is sovereign except on issues explicitly forbidden by the constitutional document.⁵¹

More disturbing than the resurrection of Calhoun's doctrine is the anti-equalitarianism expressed in the minority opinions. By acknowledging the validity of representation based on units of geography, economics, and residence, the minority would sanction purely private interests, by themselves, as a legitimate force in democratic politics. A state would be permitted to treat its citizens differently based on residence or some other factor, a position which denies that citizens equally represented can direct human society. Thus, the minority would return the Court to its pre-1938 rulings and ignore Justice Harlan Fiske Stone's admonition that "the judiciary has a special responsibility as defender of those liberties prerequisite to the purity of the political process."⁵² Universal suffrage as a basis for governance is thus denied by the minority view. And judging from the public reaction in the western states, and Nevada in particular, the minority position expressed the attitudes of most state officials.

Response in Nevada to Reapportionment in 1964

Reapportionment of both houses of the state legislature based on population was not an issue that was suddenly injected into Nevada politics. After the Supreme Court's assumption of jurisdiction in *Baker v. Carr*, the AFL-CIO in Nevada filed suit in state court to force the legislature to apportion itself on the basis of population. Between the time of the AFL-CIO suit and the *Reynolds* decision on June 15, 1964, the Nevada legislature played a waiting game, hoping to prolong, delay, or completely avoid the issue. But once the prospect of reapportionment was squarely before the legislature in 1964, it responded with irrational pronouncements and a parroting of tradition.

Outside of Clark County, which stood to benefit the most from reapportionment, the reaction was immediate. William Dial, state senator from Ormsby County, said that states had lost their rights and the liberties of the people were deteriorating.⁵³ Senator Wilson McGowan of Pershing County said that minorities were being disfranchised and the Court's decision was another step toward socialism.⁵⁴ And Senator Carl Dodge of Churchill County feared that reapportionment would allow gamblers and labor leaders to take over the state at the expense of mining and livestock interests.⁵⁵



Senator Carl Dodge of Churchill County. (*Nevada Historical Society*)

Unsurprisingly, proclamations of condemnation abounded. The Reno City Council passed a resolution asking the United States Congress for a constitutional amendment to overturn the Supreme Court's reapportionment decisions. On July 26, 1964, Washoe County commissioners passed a similar statement, which the City of Wells endorsed five days later.⁵⁶ On August 6, 1964, Humboldt



Governor Grant Sawyer. (*Nevada Historical Society*)



Lieutenant Governor Paul Laxalt. (*Nevada Historical Society*)

County followed Washoe's lead, and the Elko City Council also went on record against reapportionment.⁵⁷ Likewise, the Churchill County Board of Commissioners and the Fallon City Council came out against reapportionment, adding momentum to the movement to curtail the Supreme Court by way of a constitutional amendment.⁵⁸

Between June and December 1964, most Clark County spokesmen maintained a low-key approach, while at the same time supporting reapportionment. Typical was the opinion expressed by Clark County's Senator Mahlon Brown, who strongly endorsed the concept of one person, one vote.⁵⁹ Las Vegas's Mayor Oran Gragson, Henderson's Mayor W. B. Byrne, and the Las Vegas City Commission all endorsed the court's ruling.⁶⁰ However, the timidity of Clark County was broken on December 27, 1964, as the debate intensified. The *Las Vegas Review-Journal* charged that smaller counties feared the loss of revenue as much as of representation; they worried that legislators from Clark County, which had a lucrative tax base, might refuse to vote to share its revenue with poorer counties.⁶¹ The editorial charged that greed, more than political philosophy, was the driving force behind the opposition of the "cow counties" to reapportionment.

Amid the swirl of emotions from complacency to raging anger, leadership at the highest levels in the state was partisan and rancorous. On June 27, 1964, State Attorney General Harvey Dickerson told Governor Grant Sawyer that the Court's ruling in *Reynolds v. Sims* applied to Nevada. Sawyer promptly appointed Dickerson to chair a fifteen-member commission to study the issues, determine

their applicability to Nevada, and assess the effect of reapportionment on the state's economy, if any.⁶² Dickerson voiced his opposition to the reapportionment decisions and urged an amendment to the United States Constitution to allow states to decide for themselves how representation would be based in one house of the legislature.

Dickerson's position received support from across partisan lines. In 1962, Republican Paul Laxalt had been elected to the state's second-highest office. From the beginning, the relationship between Laxalt and Sawyer was one of mutual distrust and antagonism. Clearly, each man disliked the other, which was further complicated by the assumption that Laxalt would challenge Sawyer in 1966 if the governor chose to run for an unprecedented third term.⁶³ In a selective appeal immediately after Sawyer's decision to appoint a commission, Laxalt charged that the governor was ducking the issue and trying to get off the hook. He urged Sawyer to try to save states' rights because, "If there was ever a time to fear [for] our rights as a state, it is now."⁶⁴ Then, in an imaginative construction of reality based on fear and misunderstanding, Laxalt said, "Further Supreme Court decisions could mean possible loss of Nevada's United States Senators."⁶⁵ Laxalt did not articulate how the Supreme Court would overturn the clear language of article V, which mandates equal representation in the United States Senate, nor did he consider, or explain, the near impossibility of amending the Constitution to wipe out equal representation of states in the Senate.

Nevertheless, the Dickerson and Laxalt positions won approving nods from Nevada's congressional delegation, all Democrats. In the House of Representatives on July 21, 1964, Walter Baring introduced H. R. 11962 to limit the jurisdiction of the federal courts to hear appeals in state apportionment cases. The Baring proposal was referred to the Committee on the Judiciary, where its provisions were fused with those of nearly seventy similar bills. Senator Howard Cannon, who was running for re-election and certain to face a stiff challenge from Laxalt, positioned himself on the side of states'-rights rhetoric by saying that apportionment was a matter for the states to decide, not the federal courts.⁶⁶ The state's senior senator, Alan Bible, in a speech before the Reno Rotary Club on November 17, 1964, noted that the history of state legislative representation had not been based on the federal plan. Still, Bible said, "Voters should have the right to decide how to apportion their own legislatures."⁶⁷ He did not mention the *Lucas* ruling handed down the same day as *Reynolds*, nor did he indicate any awareness that the Supreme Court had specifically rejected diluting the equal-protection clause of the Fourteenth Amendment by majority vote.

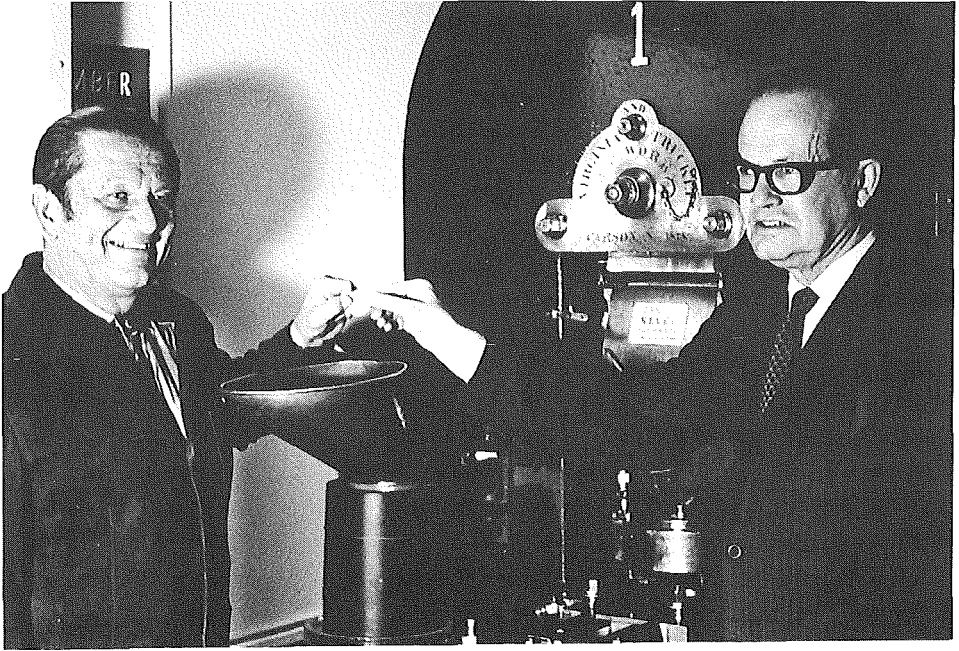
Despite the rhetoric, hand wringing, and political posturing, some, like two-term Assemblywoman Flora Dungan of Clark County, demanded action. She irritated many and outraged more than a few when she filed suit in federal district court to challenge Nevada's apportionment scheme.⁶⁸ Shortly afterward, in August of 1964, United States District Judge Roger D. Foley, sitting in Las



Congressman Walter Baring. (*Nevada Historical Society*)

Vegas, ordered a three-judge panel to convene the following June in the event the legislature failed to implement *Reynolds v. Sims*. Judge Foley told Attorney General Dickerson that the federal court would reapportion the state if the legislature failed to take action.⁶⁹

Militant discourse in Carson City mirrored developments taking place in Washington, D.C., and on the national scene. The 1964 Republican convention nominated Senator Barry Goldwater of Arizona for president, and he endorsed a plank in the party platform calling for apportionment of state legislatures on factors other than population. This was a flip-flop for Goldwater, who had



Senators Howard Cannon and Alan Bible in the Nevada State Museum in Carson City. (*Nevada State Museum*)

earlier supported the *Reynolds* decision, but now reversed course in line with the majority of his party.⁷⁰

The mood of Congress was divided less along purely party lines than on ideological positions. Republicans and southern Democrats in the Senate, long the mainstay of conservative public policy, lined up against the Supreme Court by supporting an amendment to the Constitution to limit the Court's jurisdiction, a position similar to that of the Baring proposal. Meanwhile, the House had voted 218 to 175 in approving a nearly identical bill, but it failed to gain Senate approval.⁷¹ Back in the Senate, Minority Leader Everett Dirksen, Republican of Illinois, proposed a constitutional amendment that would limit for up to four years the jurisdiction of federal courts to hear apportionment cases involving state legislatures. This, too, failed because of a successful filibuster by Senate liberals. Afterward, the Senate passed a sense-of-the-Congress resolution urging the federal courts to give state legislatures six months to comply with the reapportionment mandates. The resolution failed to gain the House's approval.⁷² Thus, 1964 came to a close amid more confusion than when it began.

* * *

Part II of this article will appear in the next issue of the *Quarterly*.

NOTES

¹377 U.S. 533 (1964). Warren's opinion was the first to apply one person, one vote, to state districts. It had been applied earlier to congressional districts in a majority opinion by Justice William O. Douglas in *Gray v. Sanders* (372 U.S. 368 [1963]).

²Grant Sawyer, *Hang Tough: Grant Sawyer, an Activist in the Governor's Mansion*, Gary E. Elliott and R. T. King, eds. (Oral History Project, University of Nevada, Reno, 1993), 121–125.

³Gordon E. Baker, *The Reapportionment Revolution: Representation, Political Power, and the Supreme Court* (New York: Random House, 1966), 15. The term *rotten boroughs* refers to English parliamentary constituencies in districts that had become depopulated but which continued to be represented as before. Meanwhile, large population centers had no representation. Excluded from the term *constituency* were women, slaves, and Native Americans.

⁴David M. O'Brien, *Constitutional Law and Politics: Struggles for Power and Governmental Accountability* (New York: W. W. Norton and Company, 1991), I, 760.

⁵Ron DePolo and Mark Pingle, "A Statistical History of the Nevada Population, 1860–1993," *Nevada Historical Society Quarterly*, 37:4 (Winter 1994), 300. In 1860, the population of the Nevada Territory was 6,857, and in 1870, six years after admission, the population was 42,491.

⁶Kernit L. Hall, *The Magic Mirror: Law in American History* (New York: Oxford University Press, 1989), 72.

⁷Edward L. Barrett, Jr., and William Cohen, *Constitutional Law: Cases and Materials*, 7th ed. (New York: Foundation Press, 1985), 132.

⁸1 Cranch (5 U.S.) 137, 2 L. Ed. 60 (1803).

⁹David M. O'Brien, *Storm Center: The Supreme Court in American Politics*, 2d ed. (New York: W. W. Norton and Company, 1990), 209; 1 Cranch (5 U.S.) 137, 2 L. Ed. 60 (1803).

¹⁰*Martin v. Hunter's Lessee*, 1 Wheaton 304 (1816).

¹¹How. (48 U.S.) 1 (1849). Also see Gerald Gunther, *Constitutional Law*, 11th ed. (New York, 1985), 1657–58.

¹²Alexis de Tocqueville, *Democracy in America*, Francis Bowen, rev., cor., and ed. (New York: Alfred A. Knopf, 1980), I, 280.

¹³328 U.S. 549 (1946).

¹⁴Alfred H. Kelly, Winfred A. Harbinson, and Herman Belz, *The American Constitution: Its Origins and Development*, 7th ed. (New York: W. W. Norton and Company, 1991), II, 508–9.

¹⁵*Slaughterhouse Cases*, 16 Wallace 36 (1873).

¹⁶Kelly, Harbinson, and Beltz, *American Constitution*, 508–9. The logic of civil rights generally is applicable to voting rights.

¹⁷Baker, *Reapportionment Revolution*, 20, 55. Also see Morton Keller, *Affairs of State: Public Life in Late Nineteenth-century America* (Cambridge: Harvard University Press, 1977), and Sean Dennis Cashman, *America in the Gilded Age* (New York: New York University Press, 1984), for a good general treatment of the political and social life of the period.

¹⁸Michael W. Bowers, *The Nevada State Constitution: A Reference Guide* (Westport, Conn., 1993), 13–14.

¹⁹Eleanore Bushnell and Donald W. Driggs, *The Nevada Constitution: Origin and Growth*, (Reno: University of Nevada Press, 1984), 46; *Reapportionment Newsletter of the Legislative Counsel Bureau* (Carson City: State Printing Office), 1:3 (1990); *Reapportionment Bulletin No. 91–12 of the Legislative Counsel Bureau* (Carson City: State Printing Office), (1991), 49–54.

²⁰*Reapportionment Newsletter*, 1:3 (1990), 2.

²¹Bowers, *Nevada State Constitution*, 14.

²²*Reapportionment Newsletter*, 1:3 (1990), 2; Bushnell and Driggs, *Nevada Constitution*, 89.

²³Quoted in Hall, *Magic Mirror*, 310, 312.

²⁴*Ibid.*

²⁵*Ibid.*, 311.

²⁶There is a tension in the American system of government between representative democracy and constitutionalism. Democratic theorists tend toward the view that law has no necessary connection with principles of morality or justice, but is grounded in specific enactments of the sovereign or its representatives. On the other hand, constitutionalism rejects the primacy of process where individual rights are concerned. Constitutionalists contend that public policy not only depends on the decisionmakers' credential, but also on the substance of their work. For an excellent treatment

on the subject of constitutional interpretation, see Walter F. Murphy, James E. Fleming, and Sotirios A. Barber, *American Constitutional Interpretation*, 2d ed. (New York: Foundation Press, 1995).

²⁷347 U.S. 483 (1954).

²⁸358 U.S. 1 (1958).

²⁹*Ibid.* The case involved the school board's integration plan for Central High School in Little Rock, Arkansas, and the attempts by Governor Orval Faubus to frustrate the plan.

³⁰369 U.S. 186 (1962); Baker, *Reapportionment Revolution*, 119.

³¹372 U.S. 368 (1963).

³²*Ibid.* Also see O'Brien, *Constitutional Law and Politics*, 671.

³³376 U.S. 1 (1964).

³⁴Carl A. Auerbach, "The Reapportionment Cases: One Person, One Vote—One Vote, One Value," in 1964: *The Supreme Court Review*, Phillip B. Kurland, ed. (Chicago: University of Chicago Press, 1964), 2.

³⁵377 U.S. 533 (1964).

³⁶Baker, *Reapportionment Revolution*, 125–26.

³⁷*Ibid.*

³⁸377 U.S. 533 (1964); for Warren quotation, see also Gunther, *Constitutional Law*, 1622.

³⁹*Ibid.*

⁴⁰David A. J. Richards, *Toleration and the Constitution* (New York: Oxford University Press, 1986), 33.

⁴¹Quotation contained in Gunther, *Constitutional Law*, 1622.

⁴²*Ibid.*

⁴³Rationale contained in Gunther, *Constitutional Law*, 1623, and Gordon E. Baker, *Reapportionment Revolution*, 125–26.

⁴⁴377 U.S. 713 (1963).

⁴⁵The constitutional text says nothing about electoral districts of equal population, and the framers of the Fourteenth Amendment did not include suffrage within the equal-protection clause. In reinforcing representative democracy, Warren and others have de-emphasized the text, history, and practice to "read much, though not all, of democratic theory into the Constitution." Murphy, Fleming, and Barber, *American Constitutional Interpretation*, 761.

⁴⁶Murphy, Fleming, and Barber, *American Constitutional Interpretation*, 761; for quotation, see Gunther, *Constitutional Law*, 1625.

⁴⁷Gunther, *Constitutional Law*, 1625. Also see Auerbach, "Reapportionment Cases," 36. Harlan's dissent echoes back to James Bradley Thayer's 1893 essay, "The Origin and Scope of the American Doctrine of Constitutional Law," *Harvard Law Review* 129 (1893). Thayer argued for judicial deference to decisions of Congress and, by extension, to those of state legislatures, and believed that courts should invalidate acts only when a clear mistake has been made that is not open to question. It should be noted that Thayer's vision emphasizes separation of powers, and thus there is no obligation on the Court to support an open political process.

⁴⁸Gunther, *Constitutional Law*, 1625–26.

⁴⁹*Ibid.*, 1626.

⁵⁰Baker, *Reapportionment Revolution*, 103.

⁵¹Richard N. Current, *John C. Calhoun* (New York: Washington Square Press, Inc., 1963), 55–60, 103. Justices Stewart and Clark failed to consider the six elements of representative democracy: (1) popular elections for limited terms, (2) universal adult suffrage, (3) *electoral districts of approximately equal population that are not skewed to give disproportionate advantage to particular areas, interests, or persons*, (4) free entry of citizens to candidacy, (5) freedom of political communication, (6) right to political privacy for discussion. Murphy, Fleming, and Barber, *American Constitutional Interpretation*, 41–45.

⁵²*United States v. Carolene Products Co.*, 304 U.S. 152–53 (1938). Chief Justice Warren's constitutional rationale is directly tied to Justice Stone's famous footnote, reprinted here, case citations deleted.

"There may be narrower scope for operation of the presumption of constitutionality when legislation appears on its face to be within a specific prohibition of the Constitution, such as those of the first ten amendments, which are deemed equally specific when held to be embraced within the Fourteenth.

"It is unnecessary to consider now whether legislation which restricts those political processes

which can ordinarily be expected to bring about repeal of undesirable legislation, is to be subjected to more exacting judicial scrutiny under the general prohibitions of the Fourteenth Amendment than are most other types of legislation.

"Nor need we inquire whether similar considerations enter into the review of statutes directed at particular religious, or national, or racial minorities, whether prejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily thought to be relied upon to protect minorities, and which may call for a correspondingly more searching judicial inquiry."

⁵³*Nevada Appeal* (29 June 1964).

⁵⁴*Nevada State Journal* (30 June 1964).

⁵⁵*Las Vegas Review-Journal* (20 December 1964).

⁵⁶*Nevada State Journal* (26 July 1964); *Reno Evening Gazette* (31 July 1964).

⁵⁷*Nevada Daily Bulletin* (6 August 1964); *Mineral County Independent* (2 August 1964).

⁵⁸*Fallon Citizen* (13 August 1964).

⁵⁹*Reno Evening Gazette* (1 August 1964).

⁶⁰*Las Vegas Review-Journal* (7 August 1964); *Henderson Home News* (11 November 1964).

⁶¹*Las Vegas Review-Journal* (27 December 1964).

⁶²*Nevada Appeal* (27 June 1964); *Nevada State Journal* (2 August 1964).

⁶³Grant Sawyer, *Hang Tough*, 68, 70, 109, 113, 119–21, 122–23, 136–37, 138–39, 145, 183, 243.

⁶⁴*Elko Daily Free Press* (29 June 1964).

⁶⁵*Ibid.*

⁶⁶*Nevada Appeal* (19 August 1964).

⁶⁷*Nevada State Journal* (17 November 1964).

⁶⁸*Dungan v. Sawyer*, 250 F. Supp. 480 (1965).

⁶⁹*Nevada State Journal* (28 January 1965). The notification occurred in a telephone conversation between the two men.

⁷⁰Baker, *Reapportionment Revolution*, 135.

⁷¹*Ibid.* William Tuck, representative from Virginia, authored the bill to curb the jurisdiction of the federal courts.

⁷²Baker, *Reapportionment Revolution*, 136.

A MINE, THE MILITARY, AND
A DRY LAKE
National Security and the Groom District,
Lincoln County, Nevada

Gary Paine

The famous Sheahan mine is directly in view of the area 51 where the secret work is going on. . . . One can see whatever is going on down in that testing area.

—Harry Reid, United States Representative, 1984¹

No doubt, some time in the future, the importance of the Groom Range will loom larger for all of us than what it appears to be today.

—Jeff Van Ee, Sierra Club of Nevada, 1985²

I'd like to know how the military can hide behind the guise of national security when you have broken all of the rules that's supposed to ensure this country's freedom.

—Martha Sheahan, 1985³

We have operations which would have to cease if the public were allowed to be [there]. It would be extremely detrimental to our national defense effort.

—John Rittenhouse, United States Air Force, 1988⁴

Exploring, scouting, and mapping, First Lieutenant George M. Wheeler and his party from the United States Corps of Engineers traveled throughout parts of the southwest in the summer and fall of 1869 and again in 1871. Order numbers 109 and 110, issued on March 18, 1871, by the War Department, charged Wheeler, a topographical officer, with "the exploration of those portions . . . embracing parts of eastern Nevada and Arizona."⁵ Brigadier General and Chief of Engineers Andrew A. Humphreys wrote a letter of instruction on March 23 ordering Wheeler "to obtain correct topographical knowledge of the country traversed by your parties, and to prepare accurate maps of that section." A portion of that letter, words which would eventually come to fruition, instructed him in "the

Gary Paine has a master's degree in history from Temple University. The author wishes to thank Casey Fortman for his assistance with the illustration in Figure 2.

selection of such sites as may be of use for future military operations and occupation."⁶ Little did Wheeler know how prophetic his orders were. The Groom District of Nevada was one of the areas noted during his exploration. A rectangular outline marked the location on Wheeler's map.⁷ Nearby was a dry lake.

For the most part, this area of Lincoln County has been largely ignored by historians. Smaller, secluded, and situated near the western border of the county, the Groom District certainly did not compete with the better known and larger mining districts in the county, Delamar and Pioche; and the Mormon settlement in Meadow Valley resulted in a population larger than what Groom could attract. Thus these locations tend to dominate most of the historical accounts of Lincoln County.

James Hulse commented, "Lincoln County, Nevada, was not destined for a prominent place on the commercial and political maps of America," and the Groom District was undoubtedly included.⁸ Yet change the map from political and commercial to military, and Lincoln County was destined for a prominent, if not premiere, place. It may not be as colorful as other districts in the county, but the Groom District and the dry lake at its doorstep played a part in the exploration of the West, and of the world. A study of the area reveals two distinct levels of focus.

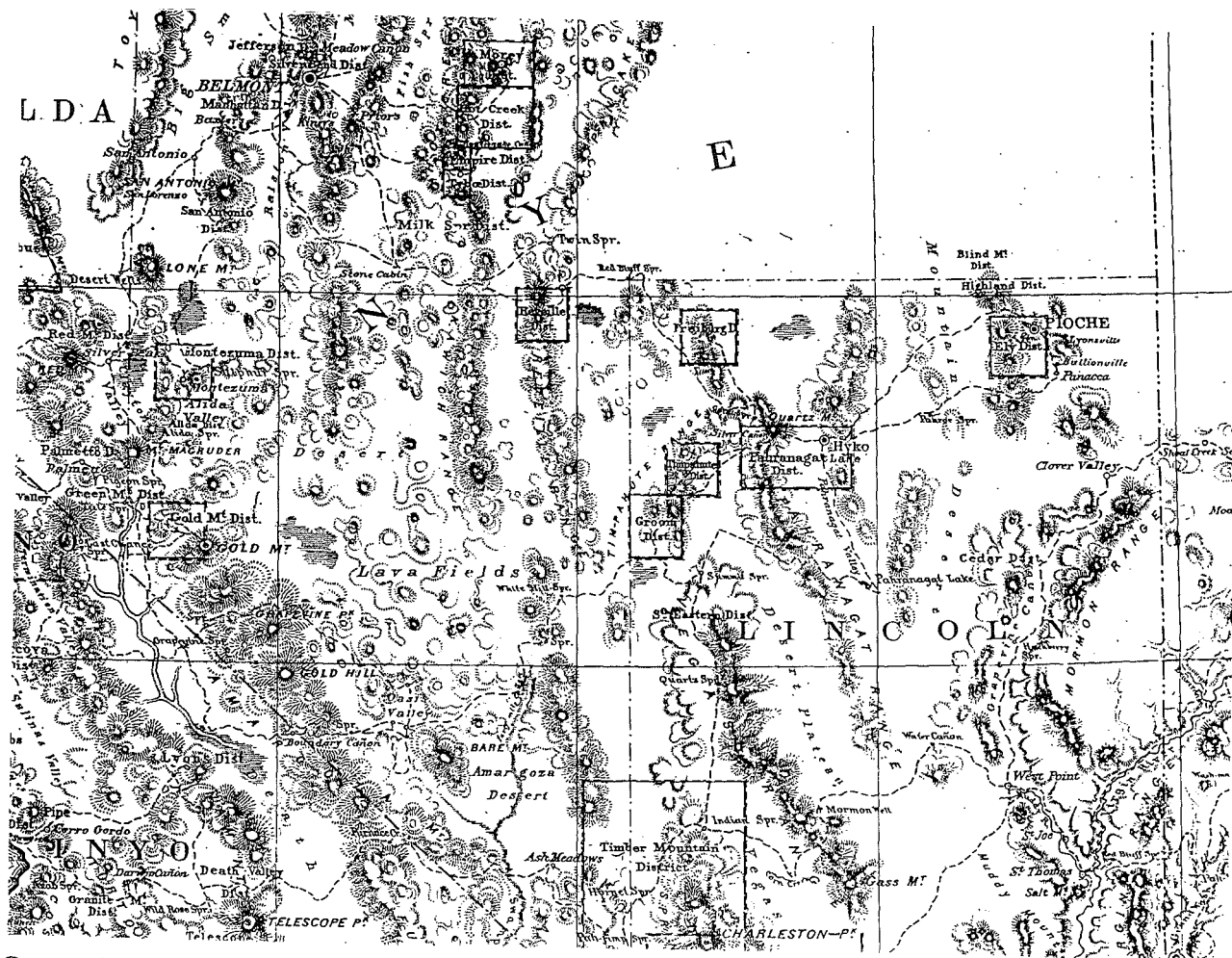
At the national level, this place was, and continues to be, an integral part of the history of aviation, the Cold War, and our national defense; its purpose and activities are shrouded in secrecy, hidden from view, and designed ultimately to protect the democratic freedoms this nation values. Despite the fact that much has been written and rumored concerning activities at this site which, until recently, was deemed nonexistent, most of the published information centers primarily on post-1955 events related to the military.⁹ The how and why of the existence of this place has hardly been explored. In addition, there has been little attempt to describe how events and decisions at the national level affected those at the local level. United States foreign-policy decisions, among others, have had a direct impact upon an otherwise obscure area of the Silver State, yet this should not be the only focus of interest.

At the local level, the Groom Mining District shares in the rich mining history that is an essential part of Lincoln County. As Bill Vincent wrote, the region's history was tied to one family in particular:

Not many people even know where Groom is. Fewer still know anything about the place. Yet the little mining camp in southwestern Lincoln County has been touched by history more times and over a longer span of years than any other place in Nevada. And it holds the distinction of being under one family ownership longer than any other mining property in the state.¹⁰

One family's history, ownership, and use of a mine provides the dominant focus at the local level. Simply put, however, the recent history of this area comes down to two human activities—extracting minerals and testing military equipment.

The dry lake, located four miles east of the border between Nye and Lincoln



The Groom district as outlined on Wheeler's 1871 map. The rough contour of the dry lake was shown just to the south of the mining district. (National Archives, Washington, DC)

counties, was called an alkali flat. It was a place where intense heat evaporated all water, leaving behind minerals that made the surface hard and smooth. During the winter months water collected in the lake from an occasional rainfall or runoff from the nearby mountains, only to evaporate once the searing heat returned. Roughly three miles wide by four miles long, this alkali flat lay at the northern end of what was eventually called Emigrant Valley.

For the Paiutes who lived in the region, the number of sightings of white explorers increased in the winter of 1849. Mormon families seeking passage to California's Gold Rush had left too late in the year to take advantage of the more direct route across Nevada's northern half. Their alternative was to take the southern route's Old Spanish Trail, which offered reliable movement between Salt Lake City and Los Angeles. Most of the party, however, soon followed a purported shorter route, based on faulty information, which took them off the trail. After days of travel with little water, and with the help of Paiutes, they stopped near the dry lake to rest, recuperate, and drink the lifesaving water from nearby springs.

Some named the place Misery Lake, a description of their condition in this desolate site, while others called it Timpahute Dry Lake after the mountains that spread out to the north. Breaking camp after a few days, the families split up and headed west, continuing their journey only to arrive in the hot, barren place below sea level that was eventually named Death Valley.¹¹

Fifteen years later and in those same mountains north of the dry lake, ore suitable for mining was discovered; it was in 1864, the same year Nevada gained statehood. On his way from Arizona to Oregon, Bob Groom had discovered the ore and a reliable spring with plenty of water. He stayed. Sporadic mining ensued until the district was organized to form the Groom Mining District in 1869.¹² "This district was not being worked by any miners in November last," Wheeler described, "but I understand that since that time parties have gone there to make some developments. The chances for mining are favorable; wood and water are sufficiently plenty, and timber for all requirements."¹³

One of the parties who initially helped develop the district with Groom was John Taylor and Company. Eighty thousand dollars, backed by British investment, was spent making improvements to the roads and mining development.¹⁴ However, despite this investment, the property was abandoned after five years of work, for the very reason that the Central Intelligence Agency would later greatly value the land: It was extremely isolated.

The patchwork of many claims that made up the Groom Mine was started in September 1872 when two claims were filed by J. B. Osborne and his partners. Named the White Lake and Conception Lode, the claims paralleled each other and became the center from which other claims were eventually clustered. These two initial claims were 200 feet wide, the first being 3,000 feet long, while the second was 2,600 feet. They were separated by a 100-foot strip of open ground.¹⁵

In 1885 Patrick Sheahan, a mining engineer, and Thomas Osborne, a lawyer

from Pioche, obtained the mine. Sheahan, who maintained majority ownership, had built and operated mills and smelters at previous mines and had worked in Idaho and Utah before coming to Nevada, where he had experience at Delamar and Pioche. Osborne was originally from Seattle. At first work was sporadic. Then in December 1893 two claims, named Maria and Willow, were located; they occupied the open strip between the White Lake and Conception Lode claims, as well as the adjacent land on the north, west, and south. These two new claims were filed by Sheahan, William Wheatley, and their partners. Of Sheahan's partners, however, only Wheatley went on to maintain a 10 percent interest with the mine.¹⁶

At 5,250 feet above sea level, the Groom Mine rested over a faulted area on the southern side of a volcanic, rock-covered mountain range. The highest peak, just to the north, was a 9,380 foot conical volcano, later called Bald Mountain because of its light-colored top. Wheeler described the area as "one vast deposit of galena."¹⁷ An 1873 report listed the veins as large and carrying "chiefly smelting ores; being low grade, they will not pay for shipment any great distance to be worked."¹⁸ The mined ore yielded primarily lead, silver, copper, and zinc. However, zinc was extracted in much greater quantity from the Black Metal Mine, which was claimed in 1917 and located about one mile south of Groom.¹⁹

Access to the mine was provided by two dirt roads. Heading south from the mine, a road skirted the dry lake and continued down the Emigrant and Indian Springs valleys to arrive at Indian Springs. This route was used as early as 1876 and required three days of travel.²⁰ Between 1910 and 1925 ore from the mine was hauled south on this road with the use of ore cars pulled by tractors. Once in Indian Springs the ore was then shipped on the Las Vegas and Tonopah rail line.²¹ A second road, one that would become the primary entrance to this area, was the Groom and Hiko Road, which led from the mine and then headed east over some low-lying foothills before emptying out into Desert Valley, now called Tickaboo Valley. From there it connected with access to Hiko and Alamo.²²

Patrick Sheahan leased the mine to others who worked it periodically. Tom McCormick was one such lessor who worked the Groom Mine for two years, beginning in 1915. His two years resulted in a gross yield of \$103,244.²³ It was also during this time that additional claims were made. William Armstrong located four claims, named South End, South End Fraction, Southern Groom, and Bride, between 1914 and 1917.²⁴ And the remaining land on the east side of the original White Lake and Conception Lode claims was organized into two claims and simply named for their position, East Side numbers 1 and 2.

Then, beginning in 1919, the second-generation Sheahan began working at the mine. Daniel Sheahan, Patrick's son, spent roughly half his time at Groom and the other half at home. Daniel described the mine as a "moderately small mining operation, with the usual small mining camp buildings, cabins, and the mill buildings and so on."²⁵ He worked off and on at the mine with his wife Martha, whom he married in 1923. Between 1918 and 1938 the mine produced

10,836 ounces of silver, 2,142 pounds of copper, and 722,882 pounds of lead. Trace amounts of gold were also mined.²⁶ Through the years eight more claims were located. Patrick located claims Senior, Junior, and June between 1919 and 1924. Daniel located Ford and named a claim after his wife Martha, both in 1924. And the father and son combined located claims Cliff, Mill, and July in July 1926.

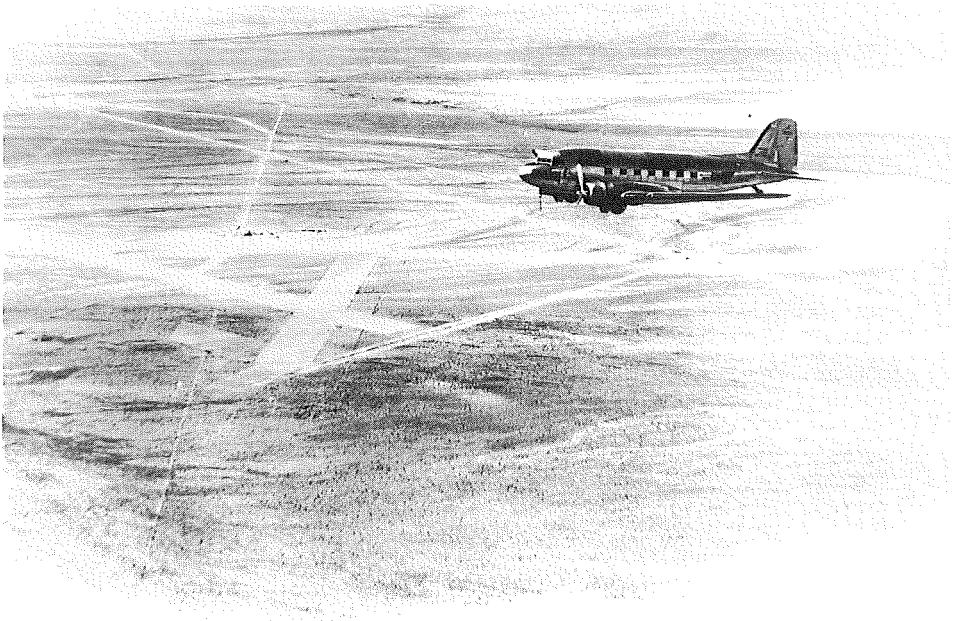
The mine's mountainous location gave an excellent view to the south, which extended about twenty miles. The most obvious feature in that view was the dry lake, later to be called Groom Lake, named after the mining district.²⁷ It was just south of the lake that the federal government drew the first of several boundaries. On May 20, 1936, President Franklin Roosevelt set aside more than two million acres of land designated as a refuge for desert bighorn sheep. The northern boundary for this Desert Game Range, now called the Desert National Wildlife Refuge, rested a few miles south of Groom Lake.²⁸ Five years later another federal boundary would be drawn, this time dealing not with sheep but with aircraft. Events in Europe were about to bring change to Nevada.

With war looming on the horizon, the United States Army Air Corps acquired the use of a Western Air Express dirt runway eight miles north of Las Vegas in January 1941. By June the Las Vegas Army Air Corps Gunnery School was established. The school trained aerial gunners in the tracking and shooting of enemy aircraft, and about 4,000 students were graduated every six weeks to serve in bomber crews operating both in Europe and the Pacific.

Training began with classroom instruction on .30- and .50-caliber machine guns, aircraft recognition, range estimation, and tactics. Hands-on training started with pistols, air rifles, and shotguns shooting at clay pigeons. Students then practiced with .30- and .50-caliber machine guns in turret training. Their training culminated as they sat in aircraft turrets and fired at targets that were towed behind other planes flying alongside.²⁹

It was this latter part of the training that required the use of more land. North of Las Vegas, and specifically between Indian Springs and Tonopah, lies a huge chunk of what was called public-domain wasteland, available for \$1 per acre. From the Army's viewpoint the location was excellent. The weather in this part of the country gave nearly year-round flying conditions. Numerous mountain peaks provided natural backstops for live firing tests at targets. And the many dry lakes that dotted the area supplied a smooth and ready surface for any emergency landing. By December 1941 the Army had a sizable piece of land that would later be called the Las Vegas Army Bombing and Gunnery Range.³⁰

Initial gunnery training with T-6s, and later, as the war continued, B-17s, P-39s, and B-29s, required the use of dry lakes as "emergency landing fields, or even as operational landing fields for preliminary tow-target work."³¹ The Air Corps Gunnery School chose four sites for these activities with Site Number 1 located near the eastern edge of Groom Lake. Two perpendicular 5,000-foot-long runways were cleared out of the desert scrub, providing an easily visible T-shaped airfield.³² The location was just within the gunnery range boundary,



An aerial view of the airstrip at the Las Vegas Bombing and Gunnery Range, now Nellis Air Force Base, in 1942. (*Nevada Historical Society*)

a mere four miles from the Groom Mine. Despite the distance from the airfield the airspace above the mine was eventually declared, and included with the rest of the bombing and gunnery range as, a Danger Area.³³

With increased aerial activity over the nearby bombing and gunnery range as the nation prepared for war, Daniel Sheahan, starting in 1941, began full-time work at the mine in conjunction with the International Mining Corporation of New York. Because the mined ore was low grade it had to be milled on site. Sheahan started construction on the mill in 1942. When finished, at a cost of almost \$82,000, the mill used both the gravity and flotation methods to process the ore. The mill and its adjoining power plant were about a quarter mile west from the mining camp's main house and cabins. North of the house and cabins was a 200-foot-long tunnel that led to the entrance of the mine. Nearby was a small warehouse and blacksmith shop.³⁴

Evidence of the close proximity of the military's property could be seen, heard, and even collected at the mine. Spent .50-caliber shells found on the mining property, most likely ejected from overhead aircraft, reminded the Sheahans of what lay to the south and west of them. Damage sustained to an outhouse and a bunkhouse from stray fire was a grim indicator of what lay ahead. Nevertheless, production during the war years was steady, their ore yielding \$148,200 for the 1942–45 period.

The cessation of hostilities in 1945 resulted in sparse use of the Army Air Corps landing strip next to Groom Lake. With each passing year the strip's reversion to sand increased. While the bombing and gunnery range was briefly inactivated in early 1947, it was reactivated when the Cold War was in place by 1948. The use of an airplane to drop a new type of bomb, thereby bringing the war in the Pacific to an end, produced the need to maintain continuing tests of this newly acquired nuclear power. Soon another federal boundary would be placed. But this boundary, which simply designated ownership, could not contain what was tested within.

Postwar testing of atomic bombs, and hydrogen bombs later, took place in the Pacific Proving Grounds. The Marshall Islands formed the test site. Much information was needed concerning this new type of weapon. As satisfactory tests required the use of specialized equipment, thousands of personnel, including both military and civilian scientists, were shipped to the South Pacific, at great expense. After three years of testing, first in 1946 with the Operation Crossroads shots and ending with the 1948 Operation Sandstone shots, the Atomic Energy Commission (AEC) sought a new test site that would be relatively flat, devoid of people, and limited to fallout damage. It also had to be located within the continental United States. The goal was to save money as well as to maintain a secure environment.³⁵

Five locations were considered: one in North Carolina, one in New Mexico, one in Utah, and two in Nevada. The Las Vegas Bombing and Gunnery Range was chosen. The location met the requirements and the land was already owned by the federal government. After President Harry Truman gave his approval, the approximately 300-square-mile site was designated as the Atomic Energy Commission's Nuclear Test Site (NTS). It rested roughly in the middle of the bombing and gunnery range and utilized two drained valleys, Yucca Flat and Frenchman Flat in neighboring Nye County. The northeastern edge of the NTS boundary was fourteen miles from the Groom Mine.³⁶

Despite the activity at, and the close presence of, the bombing and gunnery range during World War II, it was the 1950s that proved to be the tumultuous decade for those working at the Groom Mine. It also marked the beginning of the third generation of Sheahans to work the mine. Robert Daniel Sheahan, a twenty-six-year-old mechanical engineering student at the University of Nevada, began working at the mine with his father, Daniel, in 1951. Daniel's second son, Patrick, worked at the mine as well. About \$3,000 a year was spent in maintaining the camp, underground workings, and timbers, and on transportation costs into and out of the remote area. The first month of the first year in the decade also saw another claim being filed. Named Pond, it was located on the southwest corner of the mine's property.

On January 27, 1951, the first of the year's twelve atomic test shots began.³⁷ "It was quite violent. It broke open the front door of our house, and cracked some windows, and kinda shook us up a little bit," recalled Daniel as he reflected

on the effects of the one-kiloton airburst after it reached their mine early that morning.³⁸ Additional tests varied in location and yield and, depending on the day's weather conditions, the mine's buildings were often littered with fallout. The mine was in a direct path of favored wind patterns that carried the fallout away from the more heavily populated regions, primarily Las Vegas.

The Sheahans realized the severity of the issue when personnel from the AEC visited in September to say that upcoming tests would be high in radiation. Daniel was advised to cooperate by shutting down his mining operations on those days when fallout was predicted to be quite heavy. Also, as a safety precaution, he was told to keep his wife and sons away from the area. The mine was shut down for twelve days following the November 1951 tests. The AEC delivered geiger counters to the Sheahans for use at their mine. It was primarily the radiation that concerned Daniel. After the May 25, 1952, shot, he wrote:

We were in a position to look right over and see the tower. We watched the light on the tower, and watched it go off. There was a small thunderhead, storm cloud, right over the top of the tower, at about 10,000 ft. elevation. That is, as the bomb went off, the device went off, the cloud picked up this thunderhead, made a beautiful sight of icing, beautiful thing, although it was a dirty thing below. This cloud then soared right over our property, joined some other clouds and started to rain. And in the rain there were large particles of fallout material, many of which were iron. We picked them up with a magnet, and they were determined as iron. And since we knew that the iron would be part of the tower, and we had been advised that part of the tower would probably contain very dangerous material, probably even containing alpha, as well as other rays, we were very worried about it."³⁹

Because of its close proximity to the test site, the mine was chosen in 1953 as a location for one of seventeen surface-and-air-monitoring stations to collect needed information downwind from the shots. Operated by the Public Health Service, the monitors, who occupied a cabin at the mine, brought with them geiger counters, communication gear, fallout collection trays, and a vacuum cleaner to take air samples.⁴⁰ The monitors used radios to communicate with the main AEC facility in Mercury, conveying information on the size and direction of the atomic cloud that was generated after each test shot.

In addition, 1953 brought about larger-yielding tests than the two previous years. Commenting in his diary on the 32-kiloton Shot Harry, detonated 300 feet in the air on May 19, Sheahan wrote, "Another very large tower shot atomic test set off at about 5:05 am today. It was the last tower left standing (aluminum tower). In size, it appeared about as large as the April 25th shot. The high and middle part of the cloud went eastward toward Mesquite. The lower tail circled us clockwise from west to north. Fallout here at 6:15 to 6:19 am."⁴¹

Besides the fallout, damage occurred from the blast wave that accompanied the above-ground tests and took several seconds to reach the mine. The damage took the form of broken windows, doors blown open, and siding and insulation panels being ripped from buildings.⁴²

Effects of the tests also affected the Sheahans personally. After one of the later 1951 shots, fallout landed on the exposed face of Martha Sheahan, producing a blister below her left eye. The brown wart-like sore worsened and was diagnosed as cancer in July of 1952. She received treatment in Salt Lake City. The Sheahans sued the United States government for \$75,600, claiming that the AEC's "experiments were negligently conducted in that great quantities of radioactive particles showed upon the premises" of the Sheahans.⁴³ The government denied the claims, and the case was dismissed because of the statute of limitations. The Sheahans had filed their claim more than two years after the incident occurred.

Daniel had written letters to the Air Force, his United States senators, and the commanding officer at Nellis Air Force Base expressing his concern about the nearby military activities. He kept copious notes of his mining operations and of the notable events in and around the mine, which included photographs and detailed descriptions of the above-ground nuclear explosions that were clearly visible from his location. His taking of photographs and notes detailing the AEC tests was later considered a possible security problem. Would the government take action against him? There was some suspicion of this in light of one particular event in 1954.⁴⁴

A brief respite occurred as the AEC conducted no above-ground nuclear tests in 1954. The Sheahans' ore that year was valued at \$22,200. Despite the year's monetary gain however, they absorbed a great loss in the destruction of their mill. An Air Force pilot flying a training mission over the bombing and gunnery range on June 23 misidentified the building as an official ground target and completely destroyed the mill, power plant, crushing plant, ore bin, truck ramp, and a diesel storage tank with bombs, missiles, and strafing gunfire. Again the Sheahans sued the government, this time for \$650,000, charging that the Air Force "negligently and carelessly or intentionally dropped or discharged a missile or missiles or a portion of aircraft from the air onto" the mill.⁴⁵ The Sheahans did not see anything strike the building but heard and saw numerous jet aircraft that day. After hearing the explosion from the main cabin, and seeing the flames rise up over the hill that separated the two buildings, Daniel and Martha rushed to the site to discover what was left of their mill. "The entire mill building was gone. The roof was caved in. The entire double structure was all leaning to the north, and everything was on fire."⁴⁶ The Air Force denied all charges, and the case was dismissed in mid 1959 for lack of further prosecution by the Sheahans.

The next year, 1955, proved to be a pivotal year in the history of this part of Lincoln County, for it established the beginning of a permanent presence on Groom Lake. Fourteen nuclear tests took place in 1955, the last one ending May 15. Days before that last test, a plane flew over Groom Lake and eventually landed before heading off to the west flying over the NTS. The plane was a Bonanza owned by the Lockheed Corporation.⁴⁷

Lockheed preferred to conduct its military business behind the scenes, espe-

cially when designing and testing a new product. Research and development took place at the company's headquarters in Burbank, California. Their prototype XP-38, later the highly effective World War II P-38 multirole fighter, was tested at March Field, Riverside, California, in the late 1930s.⁴⁸ The development of the XP-38 initiated the pattern that characterized the methods of what later became part and parcel of Lockheed's Advanced Development Projects, commonly known as the Skunk Works.⁴⁹

The pattern, of course, was to design a product, in this case an airplane, using the least possible personnel and bureaucracy to complete a design under budget and on time. Secrecy was paramount to accomplishing these goals. Testing and occasional final assembly of the product required choosing a location away from nonauthorized personnel, both military and civilian.

When the local population expanded around March Field, another test site was chosen. A large dry lake, part of a bombing and gunnery range for March Field pilots since 1933 and seventy miles north of Los Angeles, became the test site for Lockheed's latest technological developments. Rogers Dry Lake formed part of Muroc Army Airfield and later Edwards Air Force Base.⁵⁰ It was here that Lockheed tested America's first operational jet aircraft during World War II, the XP-80. Edwards had many features that made it well suited for a test site, but its location was not the most secure, and this particularly bothered the Central Intelligence Agency (CIA).

While the Cold War was increasing in temperature, the United States needed vital information on Soviet military capabilities. Aerial balloons armed with cameras were sent aloft to drift over the communist superpower in hope of capturing something of importance on film. Little information was collected. Airplanes, too, were sent up, often to be shot down and lost over Soviet territory. It became apparent that some type of airplane would be needed to fly successfully over the country, covering great distances and at an altitude high enough to evade Soviet fighters and ground-launched missiles.⁵¹

Kelly Johnson, as Lockheed's chief engineer of the Skunk Works, developed a plane that he felt was perfect for the mission. Richard Bissell directed the program for the CIA. The plane was completing development in April 1955 and would soon be ready to fly, but the CIA wanted a test site other than Edwards, something isolated with no people around, and directed Lockheed to find it. The pilot flying Lockheed's Bonanza that day was one of their test pilots, Tony LeVier.⁵² He was looking for a suitable location to test Lockheed's new plane. He found it.

LeVier searched three states looking for the right place—California, Nevada, and Arizona. Maps of desert areas were scoured, as were aerial photographs. Groom Lake was his first choice after two days of flying, and he gave it a "ten plus."⁵³ After testing the surface by dropping 16-pound iron balls to assess the solidity of the lake bed, LeVier landed the Bonanza and took photographs. It had many qualities of the Edwards test site: a flat, hard surface; good weather;

and federally owned land, as well as the essential quality that Edwards lacked—seclusion. The Groom Mountains to the north, the Jumbled Hills to the east, and the Papoose Range to the southwest provided for an isolated location out of sight from any public road. With the exception of the Groom Mine, the area also lacked people.⁵⁴

Days later LeVier flew Johnson and Bissell to Groom Lake. On that trip and a subsequent one with Lockheed employee Dorsey Kammerer on board, Johnson laid out the direction of the runway. He established it on the land bordering the southwestern edge of the lake bed, with the north end of the runway terminating at the edge of the lake: Where the runway ended, the smooth hard surface of the dry lake began and in effect became a three-and-a-half-mile extension.

Soon thereafter Richard Bissell, together with CIA Director Allen Dulles and two Air Force generals, briefed President Dwight Eisenhower on the progress of Lockheed's plane. At this meeting the president approved extension of part of the NTS boundary, moving it east to cover not only most of Groom Lake but also the abandoned World War II airstrip. This presidential action brought land previously controlled by the Air Force under the control and tighter security arrangements of the AEC, which meant that increased security was given to the land around and the airspace above Groom Lake. It also gave approval for the test site to be built.⁵⁵

With the legal and security arrangements in place, construction was begun by a CIA-front company under the name of C & J Engineering. The test facility consisted of a 5,000-foot-long asphalt runway, two large hangars, a mess hall, and a small control tower. Housing took the form of four-man mobile home trailers. There was no post exchange or officers' club. Although a road connected the facility to the Mercury Highway past Guard Station 700, the primary method of travel was to fly in and out of this location. Despite the desert terrain, new wells tapping the aquifer underneath Emigrant Valley provided plenty of water.⁵⁶ The test site cost \$800,000 and was named Watertown Strip.⁵⁷ It was completed in early July 1955, and on August 4 Lockheed's first jet-powered glider, Article 231, code named Angel, first flew from Groom Lake. It became known as the U-2.

Kelly Johnson called the test site Paradise Ranch. He hoped the attractive name would encourage Lockheed workers to come to such a desolate location.⁵⁸ "As a place to live, it left much to be desired. As a secret training base for a revolutionary new plane, it was an excellent site," commented Francis Gary Powers, who trained at Watertown before flying U-2s over Soviet territory.⁵⁹ The CIA simply called it the ranch.

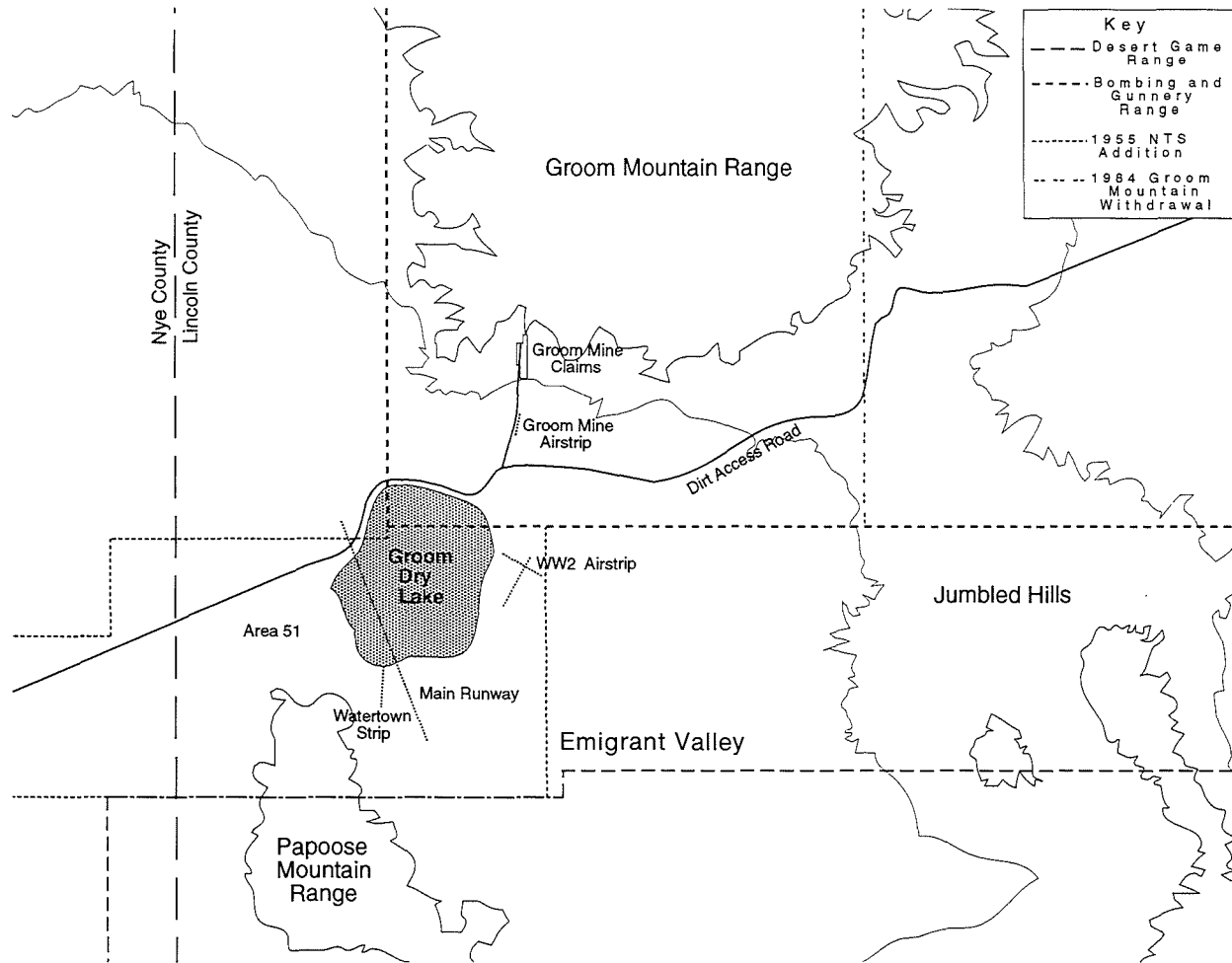
Technically, the test site was under the jurisdiction of the AEC, and later the Department of Energy (DOE), but the operations and budget came from the CIA. Nevertheless, in keeping with AEC jurisdiction, the site was included under their listing on their maps. Because of the size of the NTS, the AEC split the region into smaller, easier to manage "areas."⁶⁰ The original land that made up the NTS was divided into Areas 1 through 30. The section of land that Eisenhower annexed, containing Groom Lake, was designated Area 51.⁶¹

By the end of 1955 this location in Lincoln County was the site of the most secret plane in the United States inventory. American and foreign pilots were brought to Area 51 to train in the U-2 before being sent overseas, where they carried out their overflight missions of the Soviet Union. Watertown Strip had been laid out in a temporary fashion. The site was used to accomplish the testing and training in conjunction with the U-2 and, once the overflight program became operational, Watertown Strip was abandoned.

The United States' need for information, however, was not temporary. Although the U-2 served admirably from its inception, the government realized that another plane would eventually be needed. The Soviets would one day have the capability to shoot down the high-flying spy plane. That day came on May 1, 1960. While international events unfolded, creating tension between Eisenhower and Soviet Premier Nikita Khrushchev, the CIA and Lockheed were moving ahead rapidly on the U-2 replacement. It, too, needed a place to be tested, and once again Lockheed knew exactly where to go.

As the plane, the A-12, was under development in Burbank, the deserted facility at Groom Lake underwent a massive facelift. Construction crews transformed the dilapidated 1955 Watertown Strip into a modern and much more permanent testing facility. Watertown's asphalt runway was considered too short for the high-flying ultra fast A-12. A new, longer runway was laid down. Between September and November 1960 crews poured 25,000 tons of concrete to form an 8,500-foot-long runway. This long slab of concrete, nearly parallel with the direction of Emigrant Valley, pointed in a northwest-southeast line and extended over much of the dry lake. Housing was updated with more than a hundred Navy surplus buildings. Three large hangars were brought in to store aircraft. A farm of fuel tanks was constructed southwest of the runway to store the large quantities of fuel consumed throughout the testing program. By the end of 1961 the base was nearing readiness and would soon receive the sleek device that would be a highlight of Kelly Johnson's career.⁶²

To increase security of the airspace in and around Area 51 the Federal Aviation Administration (FAA) was persuaded to expand the restricted-status designation over a sizable portion of land in mid January 1962. "The Department of the Air Force has stated that this alteration and inclusion of additional airspace is required in support of a classified project and has justified this requirement as a matter of military urgency and necessity, and in the interest of national defense."⁶³ The addition of 145 square miles of airspace produced a 10-mile-wide box-like frame with the lake in the middle. Listed as R-4808 on FAA charts, it was barred from all air traffic, both civilian and military; flying over or getting near Groom Lake without special permission was prohibited. This included the now-abandoned 1,800-foot-long dirt airstrip just south of the Groom Mine. The security of the site was also ensured by the continued nonlisting of the facility's runways on published FAA sectional charts. Officially the airbase did not exist. With security precautions in place, the first official flight of the sleek A-12 took place on April 30, 1962.⁶⁴



Surrounded by mountains this secluded location is a patchwork of federal boundaries and mining claims interspersed with both abandoned and active airstrips. Cold War activities in and around the Groom Dry Lake and mining at the Groom Mine shaped most of the history of this area. (Map by Casey Fortman)

The box-shaped restricted airspace above the lake and the rectangular outline of Area 51 on the ground generated an obvious nickname for the site, The Box. As for the air-traffic controllers who monitored the airspace, the term *Dreamland* was applied to the site where engineers' dreams came true. And, like the dreamland of Arthur Conan Doyle's fictitious Lost World, deep within the Amazon, the test site nestled in an isolated, hidden location.⁶⁵

Use of the site by the Air Force and CIA in developing the A-12 and its later variants, including the YF-12, SR-71, and the D-21 drone, dominated most of the 1960s. With the airspace above their mine off limits and a "nonexisting" base supporting highly classified projects on the dry lake, the Sheahans found mining all but impossible. What had started off as nearby airstrips for temporary use had now turned into one of the most important test-flight facilities belonging to the United States. Mining production never reached the 1950s levels again, and 1956 was the last year of major mining efforts. Nevertheless the family continued intermittent work on the buildings and claims, maintaining the property and mining shafts in usable condition. In the late summer and fall of 1962 two more claims were filed, named Mary and Avis, after the wives of Daniel Robert and Patrick Sheahan, respectively. Their southern location connected the Southern Groom claim with the rest of the mining claims.

Because the Groom road that led to the mine also provided access to the test site, armed security units frequently patrolled the land around the perimeter boundary. The family's travel to and from the mine was often interrupted by these units, and occasionally travel was denied because of tests at the site. Although the relationship was not always amicable, and at times the Sheahans were stopped at gunpoint, a working relationship between them and the government developed over time. "We call the test site before we go and again when we leave. They watch the place."⁶⁶ Access to their mine was allowed but within the framework of whatever tests were being conducted. A great change in technology, however, was to challenge that relationship, not only with the Sheahans but also with other Nevadans living inside and outside of Lincoln County.

The change was based on the marriage of two events during the mid 1970s: first, a computer program, developed by Lockheed's Dennis Overholser, that could predict radar cross section, and, second, the provision of funds from the Pentagon's Defense Advanced Research Projects Agency to support practical application of what that program could generate. The result brought about the intensely secret program called Have Blue in which two prototype aircraft exhibiting stealth characteristics were built by Lockheed at their Palmdale, California, location. Like the U-2 and the A-12 before them, the test craft were brought to Groom Lake for final assembly and testing. The first prototype took to the air in December 1977. The diamond-shaped design was a success, and the project brought a level of security to a military program not seen since World War II's Manhattan Project. The next year, "in the interest of public safety and national

defense, the Air Force began actively discouraging, and at times preventing, public or private entry to the Groom Mountain Range."⁶⁷

The northeastern boundary of Area 51 was the most vulnerable to public entry because of the adjacent public land. Although the over-all location was desolate, the Groom Mountains were not off limits to hunters, hikers, or anyone else who wanted to travel through them. And once in the mountains, the view to the south included a bird's-eye view of the test facility, runways, and hangars. Visitors who desired access to the Groom Mountains were now often denied and turned back. The area was "site sensitive." Security units requested that people not visit the area and asked for cooperation, knowing they were denying people access to public land operated through the Bureau of Land Management (BLM).⁶⁸

Fabrication of the stealth fighter began in 1979, and the first production unit flew in June 1981. Later that year, on November 20, the Air Force discreetly added to its Nellis Air Range withdrawal application the request that 89,600 acres of land, encompassing most of the Groom Mountains, be withdrawn from public use to serve as a buffer required for national security interests. This particular part of the application became known as the Groom Mountain Range Withdrawal. While the application was in process and relatively nonpublicized, an incident occurred that further strengthened the position of the Air Force in asking for and eventually receiving the 89,600 acres.⁶⁹

In April 1983 four hikers, two Americans, one German, and one British, belonging to the organization Greenpeace crossed the boundary into the NTS. They traveled for five days within the test site before turning themselves in to authorities on Yucca Flat. Despite a search with helicopters, they had remained undetected as the terrain provided plenty of cover in which to hide. This event not only raised questions regarding the physical security of the test site but also the possibility of people being able to photograph it.⁷⁰

By March 1984 government security units prohibited travel and controlled access along the Groom road. At the western edge of Tickaboo Valley where the Jumbled Hills began, a chain was placed across the road and a boundary station was established and maintained by armed guards. "Based on national security," the Air Force stated, "access restrictions were placed on this area to prevent access by unauthorized visitors."⁷¹ This action raised the ire of Lincoln County residents, who questioned the legal authority of the Air Force in the absence of approval by the United States Congress. In explaining the need to ensure security of national defense priorities, which at this point included the still denied existence of the development of stealth aircraft, the Air Force said it was "acting in the interest of Public Safety and National Defense Security."⁷² Hearings held on Capitol Hill later that summer brought much attention to the issue. By fall of that year the House of Representatives passed H.R. 4932 and the Senate passed S. 2657, which approved the Groom Mountain Withdrawal under Public Law 98-485. However, the approval was granted only through

1987, at which point the Air Force was to have completed environmental impact statements as well as public hearings in Nevada. Both requirements were met, and after a few delays and extensions, Congress in June 1988 gave approval for the withdrawal through the year 2000. President Ronald Reagan signed the bill.⁷³

While legislative debate and legal wrangling took place, the Air Force continued to maintain security arrangements along the Groom road and throughout the Groom Mountains. Lockheed's F-117A fighter was tested and placed under operational status. Despite moving the fighter program to the Tonopah Test Range, another facility within the Nellis Air Range, the Air Force kept security in and around Area 51 at the same high level as when the program was under development, if not tighter. The advanced fighter later proved its worth by eliminating Iraq's air-defense network in the early hours of the Persian Gulf War in 1990. It was the first operational combat aircraft that successfully employed characteristics that reduced its radar cross section.

The 89,600-acre addition to the Nellis Air Range meant that the Groom Mine property was now surrounded by Department of Defense land. That portion of the Groom road which led to the mine was now under Air Force jurisdiction. As majority owners of the mine, the Sheahan family agreed to keep their mine and not sell it to the government. Majority ownership remained in the hands of the two sons while Daniel and Martha's daughter, Barbara, took ownership of one of the patented claims. Primarily, the family wanted unrestricted access to their property, an impossibility given the importance of what lay on the dry lake. Nevertheless, the Sheahans entered into an agreement with the Air Force whereby they could maintain scheduled, prearranged visits to their mine to continue maintenance and assessment work on the twenty-two patented and unpatented claims. They were to be compensated for lost mineral extraction. Full production could never resume because of the limitations and conditions that the Air Force placed upon their visits. In effect their operations continued under the same guarded conditions maintained since the mid 1950s.⁷⁴

The attention and press brought to the area because of the 1984 withdrawal and the development of the fighter did not end when the Air Force went public with the plane in 1988. In some ways it was just beginning. Although the 1984 border extension was designed as a shield from prying, curious eyes, a mountain and several ridges that lie just outside the new boundary were of sufficient height to jeopardize the original purpose for such a withdrawal. Any interested person could legally climb in these areas, all on BLM land, which gave view to the test site roughly thirteen miles to the west. It appears that the staff who originally drew the boundary for the 1984 withdrawal was somewhat lax in examining elevations of the high points in the saddle between the Groom Mountains and the Jumbled Hills. The boundary's straight line missed these points, which became bleachers for persons interested in viewing and photographing the test site, as well as in hypothesizing about what the Air Force was currently testing. The Air Force subsequently requested a withdrawal application for those areas, this time for just under 4,000 acres, from the BLM in October 1993.⁷⁵

Attention given to the site and the study of released satellite photographs revealed a test facility that enlarged dramatically through the 1970s and 1980s, as would be expected in the support of development of new aircraft. The facility's runway was estimated to be 27,000 feet in length. Hangars, some extremely large, and housing units were added among other features such as large antennas and other electronic testing equipment. Daily flights of chartered airlines brought workers to the site, and the budget for maintaining Area 51 was estimated at \$1 billion per year.⁷⁶

With increased outside attention and the end of the Cold War, questions concerning the need for and activities at the facility were brought forward. Why the continued secrecy? What military programs require such secrecy and remote testing facilities in a time of shrinking defense spending and personnel reduction? What is being tested, and what has previously been tested, that needs to remain under the thick veil of secrecy of the facility's forty-year history?

What was considered necessary and vital during the Cold War continues to play a vital part of America's defense establishment today. And what the post-Cold War world has shown is that the veil of secrecy is getting thicker, more defensive, and more active as attempts to lift it have been met by increased protective measures by the Air Force, as evidenced by the request to withdraw the 4,000 acres. Claims of improper removal of hazardous waste causing health problems for former employees of the site resulted in a lawsuit against the government. The suit revealed how waste is handled, primarily burned and buried in trenches, and also forced the Air Force to make an official, yet nondescript admission that they have "facilities within the complex near the dry lake bed of Groom Lake."⁷⁷ To critics of the site the environmental abuses pointed to the lack of proper government oversight in operating a classified facility.

The facility remains an integral part of the country's black budget, that portion of the federal budget in which high-level programs and funding are purposely hidden, labeled using false names, and subjected to little if any supervision or oversight. Claims of fraud, cover-up, waste, mismanagement, and environmental abuse are regularly applied to such programs. Pertinent information is compartmentalized, and obfuscation and denial have become policy regarding release of any significant facts. Any serious questioning of this facility, however, will ultimately lead to a study of the black budget and its funding of the vast military and intelligence community assembled since the end of World War II.

Further study of this place must focus, too, on the intimate relationships among Lockheed's Advanced Development Projects, their successful work, and the intelligence and defense communities. "What the Skunk Works does is secret. How it does it is not."⁷⁸ Kelly Johnson's famed fourteen rules of operating in the world of military contracts have been applied at this test site. Of those fourteen rules, however, the thirteenth is readily apparent: "Access by outsiders to the project and its personnel must be strictly controlled by appropriate security measures."⁷⁹ If the past serves as a guide, then the programs and aircraft being

tested at Area 51 are the most technologically advanced on the planet, are serving America's national security needs, and will be revealed only under conditions considered appropriate by the Pentagon and the president.

As part of the Air Force compliance in carrying out a required environmental study of the area, cultural and historical areas within the Groom Mountains were examined. The Groom Mining District, one of the areas noted, was explored, and the "cultural remains pertaining to the development" were found to be "unusually well preserved."⁸⁰ The mining district was of sufficient historical value as to be considered for nomination to the National Register of Historic Places. That status, however, could not be applied to the almost 400 acres of privately owned land that made up the Groom Mine property. The district itself was estimated to be fifth or sixth in importance out of the county's sixteen mining districts, as well as to have "significant reserves" that had "not been adequately explored," not surprising given the lack of major mining operations since the mid 1950s.⁸¹

The importance of this area has both a local and national focus, as the government's activities produced a significant impact upon the history of this part of Lincoln County. An examination of this history, brief as this one is, reveals the clash between the activities and interests of the state and those of the nation. The strong family ties and work of three generations of Sheahans form an integral part of the local history. Once used by individuals to secure their American dream, this place was then isolated from individuals by their government to ensure the security of the nation. Although less well known than stealth aircraft and spy planes, the Groom Mining District is a link to the previous century; now surrounded by guarded land, it overlooks a facility that embodies much of the Cold War's history, all lying near a dry lake close to the western border of Lincoln County, Nevada.

NOTES

¹U.S. House, Committee on Interior and Insular Affairs, *Additions to the National Wilderness Preservation System: Hearings on H.R. 4932, 98th Cong., 2d sess., 6 August 1984, Serial 98-3, 200.*

²United States Air Force and the Bureau of Land Management, *Final Environmental Impact Statement, Groom Mountain Range, Lincoln County, Nevada* (November 1986), 2:82.

³*Ibid.*, 2:87.

⁴David Koenig, "Air Force Seeks Extension of Closed Area on Groom Mountain," *Las Vegas Review-Journal* (18 March 1988), p. 9B.

⁵United States Army Corps of Engineers, *Preliminary Report concerning Explorations and Surveys, Principally in Nevada and Arizona* (Washington, D.C.: Government Printing Office, 1872), 11.

⁶*Ibid.*

⁷For Wheeler's 1871 map, see *Explorations and Surveys South of Central Pacific R.R. Preliminary Topographical Map. Prepared under the immediate direction of 1st Lieut. Geo. M. Wheeler, Corps of Engineers. Louis Nell, Chief Topographer and Draughtsman, 1871*, Records of the Office of the Chief of Engineers, Record Group 77, National Archives, Washington D.C.

⁸James W. Hulse, *Lincoln County, Nevada, 1864-1909: The History of a Mining Region* (Reno: University of Nevada Press, 1971), 1.

⁹Most of this rumor and information arises from groups that follow development of new military aircraft, as well as those in the UFO community. In particular, see Bill Sweetman, *Stealth Aircraft:*

Secrets of Future Airpower (Osceola, Wisc.: Motorbooks International, 1986); *idem*, *Aurora: The Pentagon's Secret Hypersonic Spyplane* (Osceola, Wisc.: Motorbooks International, 1993); *idem*, "Out of the Black: Secret Mach 6 Spyplane," *Popular Science* (March 1993), 56. See also J. Jones, *Stealth Technology: The Art of Black Magic*, Matt Thurber, ed. (Blue Ridge Summit, Pa.: Tab Books Inc., 1989); Gregory T. Pope, "America's New Secret Aircraft," *Popular Mechanics* (December 1991), 32; Stuart F. Brown, "Searching for the Secrets of Groom Lake," *Popular Science* (March 1994), 52; Abe Dane, "Flying Saucers: The Real Story," *Popular Mechanics* (January 1995), 50; Timothy Good, *Alien Contact: Top-Secret UFO Files Revealed* (New York: William Morrow and Company, Inc., 1993); Glenn Campbell, "Area 51" *Viewer's Guide* (Rachel, Nevada: private printing, 1993); Christopher Beall, "Air Force Will Seek Continued Access Restriction to Secret Base," *Las Vegas Review-Journal* (11 October 1987), p. B1; Keith Rogers, "'Spy' Turns Focus on Buffer Area," *Las Vegas Review-Journal/Sun* (5 December 1993), p. 1.

¹⁰Bill Vincent, "Snowbound in the Desert," *The Nevadan* (13 November 1977), p. 6J.

¹¹The exact location of the forty-niners' stop remains debatable as between Groom and Papoose lakes. George Koenig, *Beyond This Place There Be Dragons* (Glendale, Calif.: The Arthur H. Clark Company, 1984), 58–65, argues that Papoose Lake was the rest stop and the springs north of Groom Lake were misnamed after the forty-niners. John Southworth, *Death Valley in 1849: The Luck of the Gold Rush Emigrants* (Burbank, Calif.: Pegleg Books, 1978), 32; Frederick C. Worman, *Anatomy of the Nevada Test Site* (Los Alamos, N.M.: University of California's Los Alamos Scientific Laboratory, n.d.); and Vincent, "Snowbound," p. 6J, all favor the Groom Lake site. Also see Richard E. Lingenfelter, *Death Valley and the Amargosa: A Land of Illusion* (Berkeley: University of California Press, 1986), 39–40, and Frank F. Latta, *Death Valley 49'ers* (Santa Cruz, Calif.: Bear State Books, 1979), 97–100.

¹²Vincent, "Snowbound," p. 6J; C. M. Tschanz and E. H. Pampeyan, *Geology and Mineral Deposits of Lincoln County, Nevada* (Reno: University of Nevada and the Mackay School of Mines, 1970), 148; Stanley W. Paher, *Nevada Ghost Towns and Mining Camps* (San Diego: Howell-North Books, 1970), 303; Fred LaSalle Humphrey, *Geology of the Groom District, Lincoln County, Nevada* (Reno: Nevada State Bureau of Mines and the Mackay School of Mines, 1945), 35; Francis Church Lincoln, *Mining Districts and Mineral Resources of Nevada* (Reno: Nevada Newsletter Publishing Company, 1923), 121.

¹³United States Army Corps of Engineers, *Preliminary Report upon a Reconnaissance through Southern and Southeastern Nevada* (Washington, D.C.: Government Printing Office, 1875), 23.

¹⁴Humphrey, *Geology*, 35; Vincent, "Snowbound," p. 6J.

¹⁵*Mineral Survey*, numbers 37 and 38 (United States Department of the Interior, Bureau of Land Management, Reno, Nevada).

¹⁶Humphrey, *Geology*, 35; Vincent, "Snowbound," p. 6J; *Certificate of Location* (NMC) 1385 and 1386, United States Department of the Interior, Bureau of Land Management, Reno, Nevada. Additional claims of the Groom Mine are listed under NMC 1389–1399.

¹⁷U.S. Army Corps of Engineers, *Preliminary Report*, 23.

¹⁸H. R. Whitehill, *Biennial Report of the State Mineralogist of the State of Nevada for the Years 1873 and 1874* (Carson City: John J. Hill, state printer, 1875), 66.

¹⁹Humphrey, *Geology*, 45.

²⁰"The History of the Settling of the Manse Ranch and Territory," *Nevada Historical Society Quarterly*, 27: 3 (Fall 1984), 166.

²¹Walter R. Averett, *Directory of Southern Nevada Place Names*, rev. ed. (n.p.: private printing, 1962), 49.

²²*Map of Lincoln County, Nevada* (compiled by H. E. Freudenthal from official surveys, 1908). This road currently connects with Nevada Highway 375.

²³Humphrey, *Geology*, 35; Bertrand F. Couch and Jay A. Carpenter, *Nevada's Metal and Mineral Production, 1859–1940* (Reno: University of Nevada, 1943), 84.

²⁴*Mineral Survey*, numbers 4658 and 4659 (United States Department of the Interior, Bureau of Land Management, Reno, Nevada). See Jack Quade and Joseph V. Tingley, *Mineral Inventory and Geochemical Survey, Groom Mountain Range, Lincoln County, Nevada* (Reno: Nevada Bureau of Mines and Geology, 1986), 11, fig. 4, for a map and listing of the Groom Mine claims.

²⁵Joint Hearings of U.S. House Committee on Interstate and Foreign Commerce and U.S. Senate Committee of Labor and Human Resources and the Judiciary Committee, *Health Effects of Low-Level Radiation*, Vol. 1, 96th Cong., 1st sess., 19 April 1979, Serial 96–41, 1112.

²⁶Tschanz and Pampeyan, *Geology and Mineral*, 152. Table 17 shows production figures of the Groom District, 1915–56. Compare with Humphrey, *Geology*, 35.

²⁷Helen S. Carlson, *Nevada Place Names: A Geographical Dictionary* (Reno: University of Nevada Press, 1974), 128.

²⁸United States Department of the Interior, Fish and Wildlife Service, *Refuge Leaflet 26*, (n.d., n.p.).

²⁹James R. Hinds, ed., *Epitome of the History of Nellis Air Force Base, 1940–1946* (Nellis AFB, Nevada: USAF Tactical Fighter Weapons Center, n.d.), 11–12.

³⁰"Nellis Air Force Base," *Las Vegas Sun Magazine* (7 October 1979), pp. 4–5; Robert Mueller, *Air Force Bases*, Vol. 1. (Washington, D.C.: Office of Air Force History, United States Air Force, 1989), 439–42; John Cahlan, "The Skies Were Conquered," *Nevada Centennial Magazine* (1964), 43.

³¹Donald Hough, *History of the Army Air Forces Flexible Gunnery School, 1 January 1939–7 December 1941* (Las Vegas Army Air Field, Nevada: AAFSGS, n.d. but posted 1943), 4.

³²*Las Vegas Bombing and Gunnery Range Auxiliary Fields Index Sheet Map*, Los Angeles: United States Engineer's Office, United States Army Corps of Engineers. Contained in Hough, *History*, app. 1, doc. 19. The airstrip is also shown on the *Surface Management Status Map, Pahrangat Range Quadrangle, Nevada* (Washington, D.C.: Bureau of Land Management, 1978), and Can #VT IA-972, Exp. 124, Records of the Defense Intelligence Agency, Record Group 373, National Archives, Washington, D.C.

³³Compare August 1941, 30 July 1942, and 4 February 1943 of *Mt. Whitney Sectional Aeronautical Chart*, Department of Commerce, Records of the National Oceanic and Atmospheric Administration, Record Group 370, National Archives, Washington, D.C.

³⁴Deposition of Daniel Sheahan, 6–11, contained in *Sheahan et al. v. United States*, Civil-LV-175, LDG, Box 27, Records of District Courts of the United States for the District of Nevada, Las Vegas Division 1952–1965, Record Group 21, National Archives–Pacific Southwest Region, Laguna Niguel, California.

³⁵Richard L. Miller, *Under the Cloud: The Decades of Nuclear Testing* (New York: The Free Press, 1986), 75–82.

³⁶Joint Hearings, *Health Effects of Low-Level Radiation*, 1098. Distance from the pre-1955 NTS border to the Groom Mine is roughly twelve miles as shown on the *Surface Management Status Map*.

³⁷See Miller, *Under the Cloud*, 404–43, for a shot-by-shot listing of nuclear tests.

³⁸Joint Hearings, *Health Effects of Low-Level Radiation*, 1116.

³⁹*Ibid.*, 1149–50.

⁴⁰*Ibid.*, 1085–86. Also see Howard Ball, *Justice Downwind* (New York: Oxford University Press, 1986), 43.

⁴¹Joint Hearings, *Health Effects of Low-Level Radiation*, 1255.

⁴²*Ibid.*, 1165.

⁴³*Daniel and Martha Sheahan v. United States of America*, Case no. 113, Box 24, Records of District Courts of the United States for the District of Nevada, Las Vegas Division 1952–1965, Record Group 21, National Archives–Pacific Southwest Region, Laguna Niguel, California.

⁴⁴Joint Hearings, *Health Effects of Low-Level Radiation*, 1256.

⁴⁵*Sheahan et al v. United States*, 1.

⁴⁶*Ibid.*, 24.

⁴⁷Ben Rich and Leo Janos, *Skunk Works* (Boston: Little, Brown and Company, 1994), 132.

⁴⁸Clarence L. "Kelly" Johnson, with Maggie Smith, *Kelly: More than My Share of It All* (Washington, D.C.: Smithsonian Institution Press, 1985), 72.

⁴⁹Steve Pace, *Lockheed Skunk Works* (Osceola, Wisc.: Motorbooks International Publishers and Wholesalers, 1992); William E. Burrows, "How the Skunk Works Works," *Air and Space* (April/May 1994), 30.

⁵⁰John Dudley Ball, *Edwards: Flight Test Center of the USAF* (New York: Duell, Sloan, and Pease, 1962), 3. Also see Mueller, *Air Force Bases*, 123–25.

⁵¹William E. Burrows, *Deep Black: The Startling Truth behind America's Top-Secret Spy Satellites* (New York: Random House, 1986), 58–60.

⁵²Rich and Janos, *Skunk Works*, 131.

⁵³*Ibid.*, 132.

⁵⁴Additional details on Lockheed's search for a new test site can be found in Johnson, with Smith, *Kelly*, 122–23; Michael Beschloss, *May Day: The U-2 Affair* (New York: Harper and Row Publishers,

1986), 93; Don Moser, "The Time of the Angel: The U-2, Cuba, and the CIA," *American Heritage* (October 1977), 8.

⁵⁵Stephen Ambrose, with Richard Immerman, *Ike's Spies: Eisenhower and the Espionage Establishment* (New York: Doubleday and Company, Inc., 1986), 270. The eastward rectangular extension of the NTS boundary can be clearly seen by comparing the *Mt. Whitney Sectional Aeronautical Chart* of 16 March 1955 with 13 September 1955.

⁵⁶Isaac J. Winograd and William Thordarson, "Structural Control of Ground-water Movement in Miogeosynclinal Rocks of South-Central Nevada," in *Nevada Test Site*, Edwin B. Eckel, ed. (Boulder, Colo.: The Geological Society of America, Inc., 1968), 35. Two wells shown on map indicate the position at the test site.

⁵⁷Rich and Janos, *Skunk Works*, 133; Johnson, with Smith, *Kelly*, 122–23; Francis Gary Powers, with Curt Gentry, *Operation Overflight* (New York: Holt, Rinehart, and Winston, 1970), 31, 35–36. The name Watertown is listed within the 1955 NTS extension as shown on the Atomic Energy Commission's *Infinite Dose Ground Survey Map* made after the 28 May 1957 nuclear test shot. The map is printed in Joint Hearings, *Health Effects of Low-Level Radiation*, 310.

⁵⁸Johnson, with Smith, *Kelly*, 123.

⁵⁹Powers, with Gentry, *Operation Overflight*, 31.

⁶⁰John Cahlan, "Nuclear Story," *Nevada Centennial Magazine* (1964), 186.

⁶¹Ed Vogel, "Nevadans Question Air Force Seizure of Land," *Las Vegas Review-Journal*, 20 May 1984, p. 1B.

⁶²Paul F. Crickmore, *Lockheed SR-71: The Secret Missions Exposed* (London: Osprey, 1993), 11; Pace, *Lockheed Skunk Works*, 161–62; James Goodall, *SR-71 Blackbird* (Carrollton, Texas: Squadron/Signal Publications, 1995), 10.

⁶³"Special Use Airspace," *Federal Register* (9 January 1962), part 608, 205. Microfiche.

⁶⁴Crickmore, *Lockheed SR-71*, 13–15. Restricted area boundary visible on *Mt. Whitney Sectional Aeronautical Chart*, 29 March 1962. For Groom Mine airstrip, see *Surface Management Status Map*, and Can #7593, Exp. 200, Records of the Defense Intelligence Agency, Record Group 373, National Archives, Washington, D.C.

⁶⁵Good, *Alien Contact*, 138; Brown, "Searching for Secrets," 53; Campbell "Area 51," 22; Sir Arthur Conan Doyle, *The Lost World and The Poison Belt* (San Francisco: Chronicle Books, 1989), 85.

⁶⁶Vincent, "Snowbound," p. 23].

⁶⁷United States Air Force and the Bureau of Land Management, *Draft Environmental Impact Statement, Groom Mountain Range, Lincoln County, Nevada* (October 1985), 1:5; Steve Pace, *F-117A Stealth Fighter* (Blue Ridge Summit, Pa.: Tab/Aero Books, 1992); Bill Sweetman and James Goodall, *Lockheed F-117A* (Osceola, Wisc.: Motorbooks International Publishers and Wholesalers, 1990); Mark Lambert, ed., *Jane's All the World's Aircraft* (London: Butler and Tanner, Ltd., 1993), 506–7.

⁶⁸The government's fear that photographs might be taken of the base, and possibly of test aircraft, from the mine and surrounding mountains was justified. The mountains provided a clear view as the photographs listed below indicate. All were taken from the Groom Mountains and show the dry lake prior to the facility's construction: plate 16 in Humphrey, *Geology*, photo by Alan Jarlson in Miller, *Under the Cloud*, photo in Vincent "Snowbound," and two photos in Koenig, *Beyond This Place*.

⁶⁹U.S. House, Committee on Interior and Insular Affairs, *Additions to the National Wilderness*, 601.

⁷⁰Ed Vogel, "Officials Continue Search for Protesters," *Las Vegas Review-Journal* (18 April 1983), p. 1A; *idem*, "Nevadans Question," p. 1B.

⁷¹U.S. House, Committee on Interior and Insular Affairs, *Additions to the National Wilderness*, 602.

⁷²United States Air Force, *Final Impact Statement*, 2:43.

⁷³Vogel, "Nevadans Question." See also U.S. House, Committee on Interior and Insular Affairs, *Additions to the National Wilderness*; United States Air Force, *Draft Impact Statement*; *idem*, *Final Impact Statement*.

⁷⁴United States Air Force, *Final Impact Statement*, 2:96–2:101.

⁷⁵Campbell, "Area 51," 57. Photographs taken from areas outside the 1984 boundary include White Sides Mountain and a place called Freedom Ridge just south of White Sides. For photographs of the base taken from these areas see James C. Goodall, *Stealth Fighters and Bombers* (Osceola, Wisc.: Motorbooks International Publishers and Wholesalers, 1992), 21; Brown, "Searching for Secrets," 53; Rogers, "Spy Turns Focus," p. 1A.

⁷⁶Brown, "Searching for Secrets," 53; Sweetman, *Aurora*, 7; Rogers, "Spy turns Focus," p. A5;

Keith Rogers, "Secret Stealth Plane Videotaped," *Las Vegas Review-Journal* (24 February 1994), p. A1.

⁷⁷Groom Lake Exists: USAF," *Aviation Week and Space Technology* (3 October 1994), 31; Keith Rogers, "Former Groom Lake Employees Sue Government," *Las Vegas Review-Journal* (16 August 1994), p. B1.

⁷⁸Johnson, with Smith, *Kelly*, 160.

⁷⁹*Ibid.*, 171.

⁸⁰United States Air Force, *Draft Impact Statement*, 4:9.

⁸¹United States Air Force, *Final Impact Statement*, 2:17, 3:9, 2:67.

ETHNICITY AND CLASS

The Italian Charcoal Burners' War 1875–1885

Brian Frehner

The geographical division between working- and middle-class Italians who settled in Eureka County, Nevada, from 1875 to 1885 prevented formation of an ethnically cohesive community. Dispersed in the mountains and canyons surrounding the Eureka townsite, working-class Italians maintained the village-based culture of their native Italy, but distance and topography isolated each of the rural settlements, limiting interaction both with each other and with urban Italians. Settling within the town of Eureka resulted not only in the deterioration of village culture but also in a diminishing Italian ethnic identity. Exposed to the business opportunities and different cultures of a mining boom town, urban Italians elevated their status by developing social relationships with elite townspeople and becoming more affluent. This social and economic mobility required interaction with other cultures, and thus the Italians in the town acculturated while those in the hinterland did not. The social and economic investment of these urban Italians was so great that ethnic loyalty was not sufficient cause for them to risk their status by supporting attempts of the working-class Italians to improve their own.

An 1879 incident known as the Charcoal Burners' War demonstrates the tension between class and ethnic values among the Italians who settled in Eureka County. The majority of Eureka's Italians were working-class men who lived in the hills outside of town so as to be near the trees they cut and slowly burned in earthen mounds to produce charcoal. Merchants purchased this charcoal, transported it to town via teamsters, and resold it to any of the sixteen nearby smelters, where it was used to generate the heat necessary to extract minerals from the ore of local mines. After realizing that they could not get as high a price from the smelters as the merchants who purchased and resold their charcoal, the Italians formed the Charcoal Burners' Protective Association (CBPA); they agreed on a price of thirty-one cents per bushel and threatened to cut off the supply if their demand was not met. When some of the burners began intimidating team-

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sters by preventing them from loading charcoal sold by nonmembers of the CBPA, a deputy sheriff and other townsmen rode their horses to Fish Creek, approximately thirty miles southwest of Eureka, to confront the burners. They shot and killed five Italians. The class and ethnic makeup of the Italian community was a significant determinant of the events that led up to this so-called war and to the incident itself.

An examination of the Irish in Butte, Montana, demonstrates how conflicting class and ethnic values can destabilize an ethnic community. In his book *The Butte Irish: Class and Ethnicity in an American Mining Town, 1875–1925*, David Emmons argues that the Irish community in Butte based its identity upon an equal mixture of ethnic and class values. What Butte's predominantly working-class Irish desired most of all was stable employment. They determined that the best way to achieve this was "to close employment to the unskilled, the unorganized, the unsettled, or, if necessary, those not in the ethnic and social community."¹ Drawing upon Eric Hobsbawm's work, Emmons argues that the number of Irish having common class and ethnic values was sufficient to provide them with the "power to exclude," and eventually to confer an "aristocratic status to workers."² Entrenching themselves within the local union, the Irish working class controlled the hiring process in the copper mines and thereby maintained dominance over other classes within the enclave. Stability prevailed as long as workers remained employed, but that equilibrium hinged upon the community's relatively homogeneous ethnic and class makeup.

Once the promise of employment diminished, the Irish community fragmented along class lines, and ethnicity was powerless to prevent it. There had always existed some degree of class variation among the Irish, but "those with power and those without were more alike in values than was ordinarily the case where disparities of wealth and status were involved."³ Later, in the 1880s and 1890s, when national panics periodically raised the specter of unemployment, Butte increasingly "offered no promise of a fair living" to incoming Irish, and ethnicity alone could not preserve community bonds. There arose a more radically class-based identity within the ranks of unemployed Irish, and that "radicalism reflected their desperation."⁴ Although ethnicity once bridged the gap between working- and middle-class Irish, the increasing disparity between classes fractured the community and eventually resulted in its dissolution.

Unlike Butte's Irish, Eureka's working-class charcoal burners lacked the support of their middle- and upper-class compatriots from the beginning. The Italians in Eureka differed in the sense that, as Emmons puts it, "those with power and those without" had entirely different values *because* of the disparity in their "wealth and status." A major reason that working-class Italians formed the CBPA was their vulnerability to seven urban-based merchants, three of whom were Italian, who purchased their charcoal and sold it to the smelters. As middlemen, the merchants could set the price because the smelters had agreed to purchase charcoal only from them. The three Italian merchants, and perhaps



A winter view of the town of Eureka. c. 1880. (*Nevada Historical Society*)

the non-Italians, made an additional profit by paying for charcoal in script, redeemable only by purchase of overpriced supplies that the merchants provided. Because men of their own ethnicity exploited them, the burners concluded that, as in the case of Butte, Eureka "offered no promise of a fair living." Just as the Irish grew increasingly radical when employment diminished, working-class Italians resorted to intimidating the teamsters, and here, too, their "radicalism reflected their desperation." The way that class values came to dominate ethnicity among Eureka's Italians may be rooted in their northern Italian heritage.

The significant cultural differences between northern and southern Italians result in part from the lack of political unity that has plagued Italy's past. Throughout the first half of the nineteenth century, the country was divided into eight separate regions, with all but the northern province of Piedmont ruled by a foreign government or the papacy. The Italian peninsula was not unified until 1860, when Giuseppe Garibaldi liberated the area south of Rome, known as the Mezzogiorno, from 200 years of foreign rule and offered it to the king of Piedmont, Victor Emmanuel II. Although this gesture unified the peninsula in name, significant differences continued between northern and southern Italians as a result of their centuries-long political and geographic separation.⁵

Unlike most Italian immigrants to the United States, those arriving in northern Nevada prior to 1880 were predominantly from northern Italy and the southernmost Swiss province of Ticino. These immigrants carried with them cultural traits that distinguished them from the southern Italians who settled on America's East Coast from approximately 1880 to 1920 and who represented more than 90 percent of the Italian immigrants to this country. Albin J. Cofone argues that the cultural background of the Italians who settled in northern Nevada provided them with an experience significantly different from that of southern Italians. Cofone cites Herbert J. Gans's *The Urban Villagers* as an example of how "the Italian in America has been described as clannish, inward looking, and reluctant to leave the tightly-knit ethnic enclaves of the urban East."⁶ Such a description, however, does not accurately characterize Nevada's Italians.

According to Cofone, the northerners broke free more easily from the confines of the village-based culture that insulated East Coast southern Italians from the surrounding world long after they had immigrated. Like the southerners, the "Italian migrants from the north of Italy and Switzerland were poor, but a great distrust and suspicion of the outside world was not as much a part of their heritage as it was of their southern countrymen."⁷ Southern Italians defined themselves so narrowly that "being from another province, or in some cases another village, easily qualified one as a foreigner."⁸ Within New York City's Italian enclave, immigrants from different provinces lived on different streets and often would subdivide again on that street according to village.⁹ While Cofone does not entirely rule out the clannish aspects of northerners, he argues that its predominance in southerners distinguished these two groups to a significant extent.

TABLE 1
Eureka County Italian Population and Property Assessment, 1875-1885*

	1875	1880	1885
Total population	4,199	7,086	?
Italian population and percentage of total	336 (8%)	1,070 (15.1%)	?
Total property assessments	\$2,867,184	\$3,447,960	\$2,742,708
Italian property assessments and percentage of total	\$50,010 (1.75%)	\$252,701 (7.32%)	\$129,453 (4.72%)
Italians on tax rolls	62	75	88

*The term *Italian* here includes both northern Italians and the Italian Swiss.

Dino Cinel, however, does not discount the possibility of a village culture perpetuating itself among the northern Italians who settled in San Francisco. He argues that northerners maintained the propensity to reproduce *campanilismo*, which he describes as "the sense of loyalty and attachment to the traditions of one's commune (literally to the local belltower)."¹⁰ Many Italians identified more with their village than with their country because of Italy's political and geographic fragmentation. They retained the identity resulting from *campanilismo*, or the distance one could travel and still hear the ringing of the village bell. Cinel sees village culture as a trait common to all Italians.

To the extent that any traces of *campanilismo* had remained among Nevada's northern Italians, their move westward accelerated its deterioration. Cofone argues that "the patterns of Italian settlement that appeared in the East were not possible" in Nevada because travelling west "meant one took his chances alone, or with a few friends, but not with a surrogate village structure from the ancestral land."¹¹ Thus they could not replicate a village-based culture as easily as in the East. Cofone also suggests that western locales prevented the creation of a village identity because population densities were usually lower than in the East. Cinel makes this same argument for San Francisco.

Although more Italians settled in San Francisco than in any other western city, the representation of individual villages was so low that a homogeneous community arose instead of one fragmented among numerous identities. *Campanilismo* did not emerge in San Francisco because "no group from one commune was large enough to create a viable social structure by itself."¹² The number required for a "viable social structure" varied according to the population necessary for a similar community in Italy.

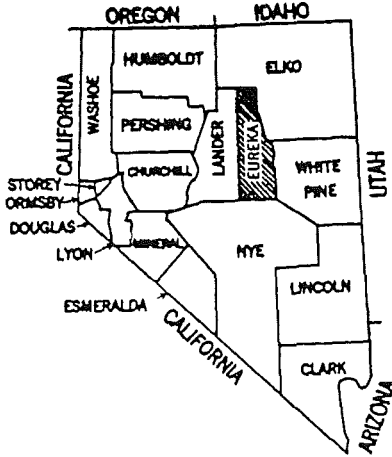
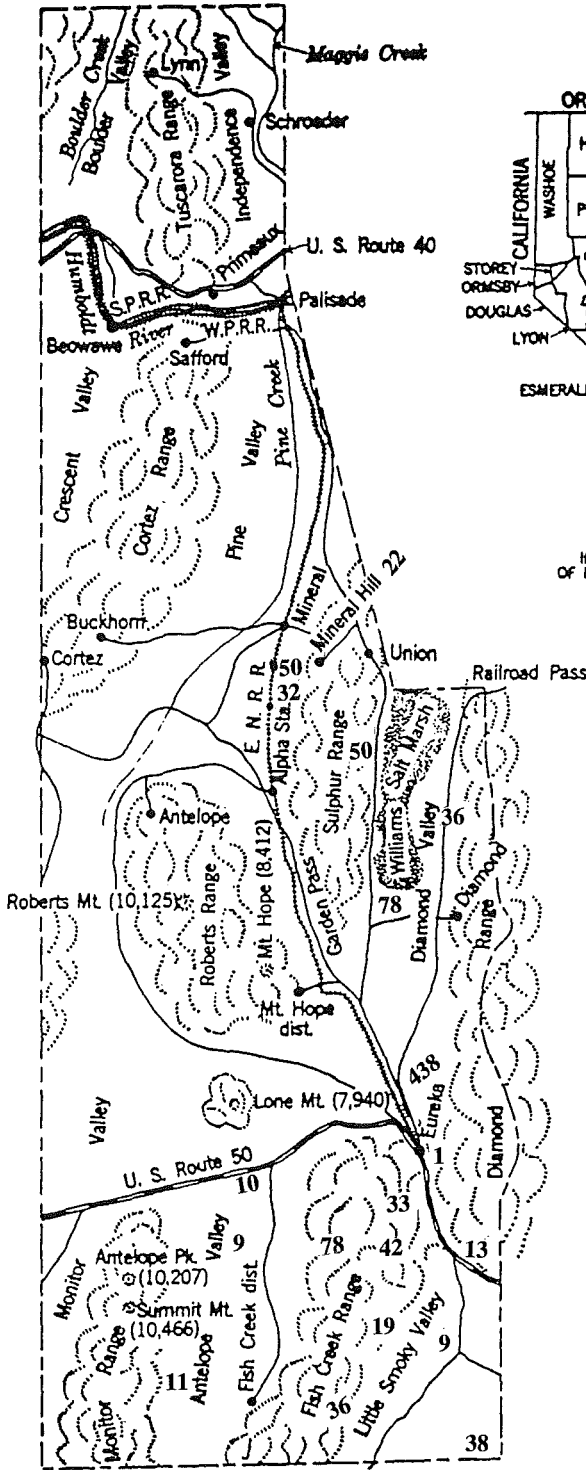
Population density played a significant part in the formation of Eureka's Italian community. In 1875, the 242 Italians and 94 Swiss-Italians in Eureka County represented approximately 8 percent of the population (see Table 1).¹³ The Italian community alone more than doubled over the next five years. Census population

statistics list 840 Italians in Eureka by 1880, but the manuscript census shows slightly less at 827.¹⁴ Assuming the lower number is correct, the 243 Swiss-Italians who listed Switzerland as their country of origin bring the total number of Italians and Swiss Italians in Eureka for 1880 to 1,070, or 15 percent of the population. They were by this time the largest ethnic group in Eureka, larger even than the 852 residents who listed their places of birth as England and Wales. Despite such large numbers, ethnic solidarity never emerged because the population was divided among the town and several locations outside of town.¹⁵

The Italians' inability to establish ethnic cohesion may have resulted from their geographic dispersion throughout Eureka County. The 1880 census indicates that Italians settled in twenty-one different locations in Eureka and the surrounding valleys (see map). The two communities spaced farthest apart were separated by approximately ninety miles. Of the 827 Italians listed in the 1880 census, 41 percent lived in the town, 25 percent were dispersed in seven locations north of town, and 35 percent in twelve settlements to the south. The average number of Italians at each northern and southern location was 31.6, a figure significantly smaller than the largest Italian community of 438, who resided in town. The town's population was certainly large enough to diminish distinctions based upon village or province that might have inhibited formation of a single community. The significantly lower total in each location outside of Eureka greatly reduced any sense of community that might have existed had all lived within a single enclave. Whether the average population of 31 in each hinterland settlement was sufficient to sustain what Cinel calls a viable social structure would again depend upon the size of the homeland village or province from which each group originated. Whatever the case, diversity within each settlement may have also caused dissension and prevented the various hinterland locations from coalescing into a single community.

Even though Eureka's northern Italians and Swiss shared a regional identity that distinguished them from southern Italians, where provincial differences continued, communities remained fragmented. Fourteen of Eureka's twenty hinterland settlements boasted a mixture of Italians and Swiss, with Italians predominating in all but one. Originating in northern Italy and sharing a common language provided Italians and Swiss with a similar culture, yet *companionismo* may have enhanced significant differences between immigrants from different provinces and villages of these two different countries. Cultural differences may have been perpetuated not only between Italians and Swiss but even among the various Italian communities because of the long distances and geographic barriers that separated them from each other in Eureka's hinterland.

The absence of geographical barriers in San Francisco prevented provincial- or village-based communities from emerging. As a result of settling in the city, Italians "were no longer isolated from each other by mountain ranges."¹⁶ Whereas mountains, canyons, and rivers isolated individual communities in Italy, in San Francisco "the barriers were only streets or paper-thin walls of



INDEX MAP SHOWING LOCATION OF EUREKA COUNTY, NEV. (SHADED)

1880 Federal Census, Italian Population of Eureka County, per location

- 32 = Alpha
- 11 = Antelope Valley
- 50 = Cedar Creek
- 16 = Copenhagen Canyon
- 33 = Dunderberry and Vicinity
- 438 = Eureka
- 13 = Eureka Canon
- 36 = Fish Creek Valley
- 19 = Fish Creek Wells
- 78 = Fish Creek Mountain
- 42 = Hamberg Mine and Fish Creek
- 36 = McGarry Dish, Diamond Range
- 22 = Mineral Hill
- 1 = New Town Eureka
- 10 = North Ruby Hill
- 49 = Pine Station
- 9 = Pinto Canon
- 38 = Secret Canon
- 9 = South Ruby Hill
- 50 = Spring Valley
- 78 = Willows Range

The area of Eureka County, from William O. Vanderburg, "Reconnaissance of Mining Districts in Eureka County, Nevada." (U.S. Department of the Interior, Bureau of Mines, Information Circular 7022, June 1938)

tenement rooms."¹⁷ Village-based cultural identities did not take root because urban settings lacked the geographic formations that isolated Italian villages. Italian identity within Eureka may have followed this pattern, but the geography outside of town shaped the rural identity in a different manner.

Unlike San Francisco's setting, the topography surrounding the Eureka town-site provided physical barriers that contributed to the isolation of each hinterland Italian community. Central Nevada's topography resembled the mountainous regions of northern Italy and Switzerland where these immigrants previously resided. Fourteen out of the twenty hinterland communities were situated on or near a creek, canyon, valley, mountain range, or hill, geographic formations that functioned as barriers to communication with other rural locations and the town. Geography strengthened *campanilismo* by reinforcing the "suspicion of 'others'" that existed among "most immigrants who came from isolated, near feudal villages."¹⁸ Cultural differences that existed long before emigration were thus perpetuated, presenting another obstacle to community formation.

The continuation of a village culture among those who settled in the hills inhibited their social mobility, whereas the Italians who resided in town identified more with the opportunities to acquire class status. Most of Nevada's Italians were working-class men attracted "by wage labor opportunities generated by the Eureka and Comstock booms."¹⁹ Cofone argues that northerners "of course had their fears and uncertainties" but were "more willing to go it alone" in traveling to an unknown land and future than were the southern Italians.²⁰ But while western urban locales diminished lingering traces of village culture, Eureka's rural geography recreated the isolation of their native Italy and halted the deterioration of a provincial mentality. Those in town could free themselves more easily from the clannish culture perpetuating itself in the hinterlands. The cosmopolitan life of a boom town presented possibilities other than "wage labor opportunities" for economic advancement, the primary reason for most of these Italians having emigrated.²¹ The increasing prosperity of Eureka's urban Italians confirms this point.

The Italians living in town demonstrated a significant increase in their economic status between 1875 and 1885. The sixty-two Italians listed on the 1875 tax rolls owned just under 1.75 percent of all taxable property in Eureka even though Italians made up 7.5 percent of the entire population. By 1880 Italians owned 7.3 percent of all taxable property and represented 15.1 percent of the population. Other than the thirteen new names appearing on the tax rolls, most of those listed were the same as five years earlier. Thus, the increase of Italian-owned taxable property indicates that the same men were becoming wealthier. The tripling of the Italian population by this time suggests a growing underclass as well. The town's total population had begun to decrease by 1885, although there are no population totals for this time. The 4.72 percent of all taxable property that Italians owned then was less than five years previously, which reflects the fact that some of the elite had left town, and those who remained

were making less because of the community's recession. It is significant that the number of Italians on the tax rolls had increased again by thirteen, suggesting that their elite was continuing to grow even as the town fell upon hard times and the over-all Italian population was diminishing.

When social stratification occurs in Italian communities, ethnicity alone usually cannot provide solidarity. Cinel argues that "a major problem early Italian immigrants faced was the lack of an educated or powerful group willing to provide leadership in community affairs." Even though there were a number of prominent Italian merchants in San Francisco, "they refused to associate with Italian laborers." Cinel concludes that the merchants' "general lack of interest . . . in community organization was a clear indication of the distance between social classes in Italy." As the San Francisco community demonstrates, prominent Italians often protected their status by refusing to interact.²²

A similar form of class stratification was also present in Eureka, but rather than refusing to socialize with the working-class the elite actively exploited it. The exploitation in Eureka resembled that of the *padroni* in other Italian communities. Charles B. Phipard describes *padroni* as a class of men who "make it their business to supply laborers" to a particular employer and who, because of their access to jobs, maintain significant control over the labor pool.²³ Laborers are particularly subject to exploitation "where the work is located out of town" because the *padrone* runs a commissary, and in the "majority of cases the prices charged to the laborers are exorbitant."²⁴ Because Eureka's Italians settled sometimes as far as fifty miles outside of town to live near their work, they would have been particularly vulnerable to any merchant capable of supplying them. Although prominent Italians in Eureka likely exploited the laborers by overcharging them for necessary supplies, no evidence suggests that they behaved in the manner typical of most *padroni* by actively recruiting laborers from Italy.

Franklin Grazeola argues that Italian businessmen involved in the charcoal industry functioned as *padroni* because many were also storeowners, and this occupation provided them with an incentive to exploit the burners.²⁵ Although Grazeola provides no evidence other than their occupations to support his claim, he is probably correct that a version of the *padrone*/laborer relationship existed in Eureka, "the crux of the economic aspect of the dispute being a debt relationship between the burners and some town merchants."²⁶ Charcoal merchants who also owned stores would have recognized the potential to profit from two businesses simultaneously by filling their wagons with supplies and selling them to burners from whom they purchased charcoal. Burners would have had to purchase these supplies because the merchants paid them for their charcoal with script, which very likely was not redeemable elsewhere.²⁷ Because of their isolation, the burners had to accept whatever means of payment the merchants chose to offer and inflated prices as well. Exploitation of the working-class demonstrated elite Italians' disregard for the reciprocal relationship between classes necessary for a stable ethnic community. Butte's Irish community understood that "neither the



The remnant of a charcoal oven in Eureka County. (*Nevada Historical Society*)

merchant nor the working-class could perform its expected community function if the latter was effectively removed as an economic participant.²⁸ Understanding the need for cooperation, “there existed an alliance between the working and the middle classes” on issues such as wages.²⁹ Butte’s different social classes, however, could not always forget their differences. For example, the decision

by the working-class "to save rather than spend" its money directly affected merchants and "the alliance broke and the sense of ethnic community suffered."³⁰ This same process occurred in Eureka when the merchants pursued their class interests to the detriment of the burners, and there, too, the ethnic community suffered. Ethnicity provided stability only if each class agreed to put aside interests that impacted other segments of the community, a concession some of Eureka's elites rejected.

Arguing that elites who exploited working-class Italians were solely *padroni* fails to explain their desire for social mobility, as indicated by the fact that the merchants Grazeola named profited more from charcoal than from merchandising. Joseph Tognini, Joseph Vanina, and John Torre were the three wealthiest Italians in Eureka in 1880, and all were charcoal merchants. Grazeola contends that these three men behaved as *padroni* because their revenue came primarily from overcharging other Italians for merchandise. However, Torre, Tognini, and Vanina each had a greater financial investment in charcoal than in their stores.

John Torre certainly could have profited from exploiting the burners, but the fact that his investment in charcoal was greater than in merchandising indicates a stronger desire for social mobility than the parasitic existence of a *padrone* would suggest. Torre was in Eureka as early as 1875, as indicated by the Nevada state census, which includes an Italian saloonowner named J. Torrey. This is certainly the same man, given the fact that an 1879 advertisement lists John Torre as a "dealer in general merchandise, wine, liquors, cigars, etc." as well as proprietor of the Garibaldi Hotel.³¹ Despite a variety of business ventures, Torre was most heavily invested in the charcoal business. His charcoal-related assets for 1880 include sixteen horses, six mules, six wagons, and four-hundred cords of wood, assessed at a total value of \$3,200. This figure omits his ownership of a forty-acre parcel of land and interest in a woodland, both of which he used to harvest wood to make charcoal. Assets from other business ventures, such as bar fixtures and merchandise, totaled only \$1,000, less than a third of his charcoal interests.³² Although the tax rolls do not indicate what percentage of his income came from which business, the greater investment in charcoal suggests that this was his primary moneymaker.

Like Torre, Tognini also had various businesses, including a saloon, but his major investment was in charcoal. Assets not related to charcoal in the 1880 tax rolls include bar fixtures, a safe assessed at \$400, and \$3,000 worth of merchandise.³³ The large amount of merchandise and the fact that the 1880 census lists him as a storekeeper indicate that Tognini also had an incentive to exploit laborers as a *padrone*.³⁴ He had more of an incentive, however, to profit from charcoal, since his \$5,605 investment there was nearly double that of his noncharcoal assets, a figure that does not include the cost of seven 160-acre tracts of timberland where he harvested wood.

Tax assessment rolls confirm that Joseph Vanina's investment in charcoal was more than five times the amount in his store and saloon. Merchandise and bar

fixtures totaled only \$1,950, significantly less than the \$10,950 invested in his charcoal business. More than 82 percent of Vanina's business investments were in the charcoal industry.

The significance of Torre, Vanina, and Tognini profiting more from charcoal than merchandising is that their success did not depend upon exploiting the burners. If they had been willing to cooperate with the working class, an interclass ethnicity could have stabilized the Italian community as it did in Butte, and perhaps prevented the Charcoal Burners' War. They had no financial reason to cooperate, given that they were the three wealthiest Italians in Eureka by 1880, more affluent than many non-Italians. Torre's assessed worth was approximately \$17,075, Vanina's was \$18,233, and Tognini was the wealthiest with \$26,468. Such gains did not come easily. Tax rolls reveal that Tognini made just under \$2,500 in 1875, less than 10 percent of his valuation five years later. Although Torre owned a saloon, he did not profit enough even to make the tax lists in 1875, and Vanina had not yet arrived in town. Becoming the three wealthiest Italians in such a short time must have been a struggle and, as a result, they would not to the ideals of ethnic solidarity surrender the class advantages they had fought so hard to win. Other members of Eureka's Italian elite, however, held a more equal mix of class and ethnic values.

Charcoal interests and ownership of a saloon enabled Celso Tatti to become the fourth wealthiest Italian in 1880, but he cooperated with the charcoal burners despite his class status. Unlike Torre, Tognini, and Vanina, Tatti demonstrated ethnic loyalty even though doing so was not in his best interest. As a charcoal merchant, Tatti had to compete with these men even though they had exclusive contracts with particular smelters to purchase only their charcoal. Despite the disadvantage he faced, Tatti assisted the burners by allowing the CBPA to use his saloon as a meeting place; there they assembled to discuss higher prices for their charcoal.³⁵ Higher prices clearly were not in Tatti's best interest, and his willingness to cooperate shows that some of Eureka's elite possessed an ethnic loyalty that transcended class differences.

The willingness of other prominent Italians to support the burners by serving as officers in the CBPA also demonstrates the existence of an interclass ethnic identity. Joseph Maginni and Lambert Molinelli were two prominent Italians who offered even more support than Tatti, serving as president and vice-president of the CBPA, respectively. Supporting the burners was not in their interests, either, particularly in the case of Maginni since he, too, had charcoal investments. Because each elite jeopardized its class status by allying with the burners, the degree to which an elite did so indicated how strongly it conceived of an interclass ethnicity within Eureka. The presence of elites with such attitudes suggests that Eureka did not conform to Cinel's characterization of Italian communities that lacked "an educated or powerful group willing to provide leadership in community affairs."³⁶ Although some of Eureka's elite did in fact provide leadership, the influence of those who did not, like Torre, Tognini, and Vanina, was sufficient to prevent interclass ethnicity from preserving community bonds.



Lambert Molinelli. (*Nevada Historical Society*)

Each of Eureka's socially prominent Italians possessed his own blend of ethnic and class values; Lambert Molinelli's was an equal mix. Like most successful Italian businessmen in Eureka, Molinelli had acculturated to his new country to a significant extent. A child upon emigration, he came to Eureka with his family sometime in the early 1870s. Once there, he married a woman from Iowa and had two children. Given the negative perception of the Italians who worked as burners, the fact that Molinelli "was well known and liked in the community"

was a significant achievement.³⁷ This perception was particularly important because Molinelli was not involved in the charcoal industry and his many business ventures required him to interact with non-Italians more often than not.

If not Eureka's most successful Italian businessman, Molinelli was perhaps its most visible. In addition to serving as county clerk, he ran unsuccessfully for Eureka County public administrator and had extensive business interests. Indeed, he and a non-Italian partner, James W. Smith, owned and operated Lambert Molinelli and Company, Conveyancers and Real Estate Agents. In addition to buying and selling mines and houses, they bonded mines, negotiated loans, sold life and fire insurance policies, and owned a safe and lock company.³⁸ In 1879, he even published a 127-page promotional history of the town. Another indication of Molinelli's interaction with the non-Italian business community was the fact that between April 1876 and February 1883 his twenty-six real estate transactions involved only one Italian. This is particularly significant since his service to the CBPA reflects close ties with the Italian community. Like Celso Tatti, Molinelli demonstrated that some prominent Italians believed in interclass ethnic solidarity. However, he could not sustain the delicate balance between ethnic and class values for long. He had a strong incentive to protect his business interests, even if doing so required him to betray his sense of ethnic loyalty.

Molinelli faced a choice between ethnicity and class, but among Butte's Irish the distinction between these values was less clearly defined. Emmons argues that "neither simple ethnicity nor class was the norm" but that both were merely elements contributing to a broader Irish identity. He contrasts Butte's Irish enclave, which "included significant numbers of middle- and upper-class Irish," with John Bodnar's model in which "worker enclaves consisted only of the working class." In a Bodnar-conceived enclave, "those who moved up, moved out." Butte's upper and middle classes remained within the enclave because they were central to its existence. In addition, the Irish working class had achieved enough respectability that "there can have been few compelling reasons to want to move out." There was "no opprobrium attached to being an established Irish miner in Butte, and no social disgrace to associating with them." This was not the case in Eureka. Ethnic loyalty caused Molinelli and other elite Italians to support the burners, but when the increasing intensity of working-class protests directly threatened their middle-class status, they reversed their position.³⁹

When some of the burners intimidated teamsters into not loading charcoal, Molinelli resigned as vice-president of the CBPA because his affiliation with the association's increasingly radical tactics threatened the status he had achieved. The smelters continued to receive charcoal from burners who refused to join the CBPA and because the more prominent charcoal merchants who produced their own charcoal supplies had agreements with the smelters to sell at a reasonable price. In order to enhance their bargaining position, some CBPA members attempted to cut off the charcoal supply by intimidating those who continued

to load and deliver. There were at least nine separate incidents where burners blocked charcoal loading, and four more stoppages came out in court when they were prosecuted for these acts.⁴⁰

Even though all the burners did not participate in these incidents and no violence occurred, the radical overtones of such tactics caused the businessmen who served as officers of the CBPA to resign. Eureka newspapers reported that Molinelli left "in protest against the wagon stoppages," and the following day "Maginni and Hausman resigned ostensibly for the same reason."⁴¹ Molinelli and Maginni could no longer support the burners because their tactics threatened Eureka's stability. Phillip Earl confirms that Molinelli's action resulted from "his business interests which surely would have suffered had he continued to support a course of action opposed by his business colleagues and customers."⁴² By now opprobrium attached to their cause and social disgrace to any association with them, unlike the case with Butte's working class.

Louie Monaco's experiences in Eureka also demonstrate that some prominent Italians chose ethnicity over class. Because Monaco was highly ambitious, he attempted to relinquish any sign of his immigrant status that might stall his economic advancement. Like that of Molinelli, Monaco's social mobility resulted in acculturation. One of his descendants wrote that the "stiff price" he paid for his social and economic prominence was that he "increasingly sacrificed a large portion of his Swiss [-Italian] emigrant identity and heritage."⁴³ Realizing that his photography studio "would survive only if he sought business from all ethnic groups," Monaco therefore "fine tuned his command of the English language," which he learned so well that his Italian began to fade. He put his language skills to use by writing letters to the newspaper editor and "improved his status within the community by purchasing several buildings and real estate in the main business district." Eureka County records confirm Monaco's dealings, listing five purchases and two sales of property between April 1875 and October 1880. The only dealing with an Italian was with Molinelli.⁴⁴ As a result of his business interests, Monaco became "isolated" from the "poor, emigrant laborers" who made up the bulk of Eureka's Italian population.⁴⁵ But despite the acculturation resulting from his social and economic rise, he maintained a significant degree of ethnic loyalty, perhaps more than any other member of Eureka's Italian elite.

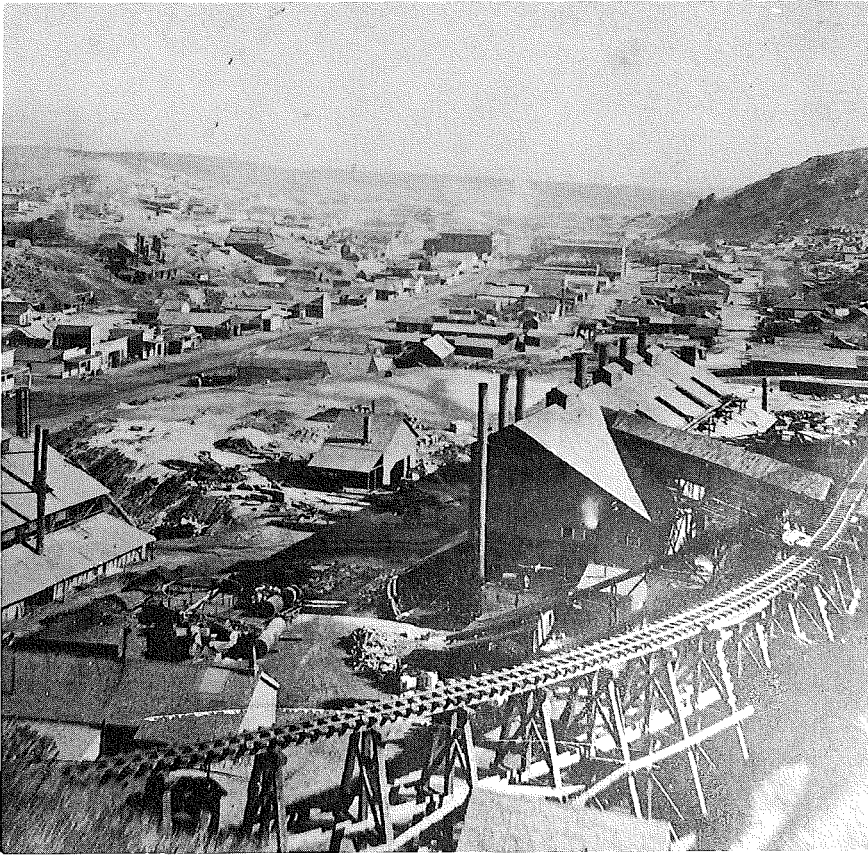
If Molinelli possessed an equal mix of class and ethnic values, Monaco was the member of the social elite most devoted to preserving ethnic ties. Whereas Molinelli resigned from the CBPA, Monaco continued to champion the burners' cause despite a significant risk to his class interests. Monaco was clearly aware of the danger he faced by allying himself with the burners; indeed, he voiced his opinions in the editorial pages of the newspaper under the pseudonym "Veritas." His columns expressed sympathy for the "'miserable, pitiful state of the poor toiler of the forest' and demanded the town provide decent wages and living conditions for his fellow emigrants."⁴⁶ In crisp language he summarized the burners' chief problem: "Four years ago, when the coal pits were but ten to

fifteen miles away, coal was worth 31 cents per bushel, and freight 6 to ten cents. Now when the pits are from thirty-five to sixty miles distance [*sic.*], and freight from 14 to 16 cents per bushel, coal is run down to 26 1/2 cents."⁴⁷ As the hills became deforested, hauling costs increased because teamsters had farther to go. The charcoal prices paid the burners decreased, however, because the purchasing merchants offset their additional hauling costs by paying the burners less.

Monaco's attacks upon the most prominent Italian merchants in town required anonymity. In accusatory language he identified the villains as "Giuseppe Tognini and Co. and Signore Giuseppe Vanini (Swiss), Signor Giovanni Torre, Mr. E. Sadler, G. Lambroux and two others."⁴⁸ These men could dictate the price paid to the charcoal burners because of their agreements with the smelters. Tognini, Vanina, and Torre aligned their interests with the non-Italians listed here, demonstrating their strong commitment to class values. Tognini's response to Monaco's newspaper editorials suggests that he may have entirely abandoned his ethnic identity. Unaware that Veritas was Monaco's pseudonym, Tognini charged him with "not understanding the 'idiosyncrasies of the foreigners.'" ⁴⁹ Tognini's reference to fellow countrymen as "foreigners" is an extreme example of the willingness of prominent Italians to reject ethnicity for class. The path toward social prominence was important enough to most of the Italian elites that they could not afford to let their ethnicity obstruct their way. Their interaction with Eureka's Jewish community demonstrates their willingness to favor social mobility over ethnic cohesion.

That the social lives of prominent Italians and Jews often intersected demonstrates that both groups conceived of their class status in a similar fashion. Norton Stern argues that "the Jews of Eureka were among the elite in the area, and this was repeatedly made evident by the prominent part they played in the civic, social and fraternal affairs of the community."⁵⁰ One indication of Eureka's social elite accepting Jews was the newspaper's praise of the Purim Ball commemorating the Jewish religious holiday. The newspaper commented that "never before has there been a social gathering in Eureka that surpassed or even equaled that of last evening."⁵¹ Attendance at such a well-received event would have been a must for socially conscious Italians seeking acceptance by Eureka's elite. Lambert Molinelli and his wife made a good showing, especially when Mrs. Molinelli "won the prize of a lady's gold watch for her costume as a Chinese woman."⁵² If acceptance required attendance at Jewish social events, Italians may have gained access to this group by establishing contacts with Jewish merchants.

Perhaps more illustrative than their social lives of the hold that class had on Italian elites were the overlapping business interests of Eureka's Italians and Jews. In 1875 there were 100 Jews in Eureka although by 1879 the number had grown only to 113.⁵³ Despite their small number, Jews' presence in the business district was equal to if not greater than that of Italians. So many Jews closed



A view of the town of Eureka from the south (*Nevada Historical Society*)

their businesses to observe Yom Kippur that the newspaper noted the “deserted appearance” of the business district.⁵⁴ Their different ethnic and religious backgrounds did not prevent Jews and Italians from doing business with one another. For example, Lambert Molinelli and another Italian, W. A. Barsanti, became partners with Sol Ashim and Joseph Hausman by selling them a quarter interest in their mine.⁵⁵ Another Molinelli family member sold property to O. Dunkel, a Jewish merchant who owned a clothing store on the block where most of the Italian businesses were located. On this same block, two Jewish dry goods merchants named Myers and Franklin erected a stone building and sold it to the Italian, Cesare Rosetti, who operated a book store in the front and offered lodging in the rear.⁵⁶ Not only did Jewish and Italian merchants freely interact, but cultural similarities may in fact have drawn them together.

Class and cultural similarities formed the foundation of a harmonious relationship among working-class Jews and Italians in New York’s needle trade. Rudolf Glanz argues that Jews who had immigrated earlier incorporated Italians into

their unions and taught them how to unionize rather than excluding them. As a result of their "meaningful meeting at the working place and consequent social intercourse," Italians "began to draw near" their Jewish coworkers.⁵⁷ The relative ease with which they interacted resulted because "no prejudice against one another had been brought over from Europe" by either group.⁵⁸ Glanz contends that aspects of the Jewish and Italian cultures were similar enough to promote ties that were not possible for other ethnic groups. These similarities may have provided a foundation for Eureka's middle-class Jews to instruct the Italians about how to join the socially elite.

The basis for such a relationship could have resulted from the clustering of most middle- and upper-class Jewish and Italian merchants on a single block at one end of town. Block thirty-seven of the 1880 Eureka townsite survey indicates a long history of Jewish and Italian ownership. The various Jewish merchants who owned lots on this block typically operated dry goods and clothing stores. Although no Jewish merchants appear to have been involved in the charcoal industry, many located here played a part in the aftermath of the Charcoal Burners' War. David Manheim owned and operated a clothing store here from 1875 to 1880 and later served as major and quartermaster of the Eureka division of the state militia mobilized to defend the town against a rumored burner attack.⁵⁹ Max Oberfelder, who built a building on this block, served on the jury when the burners who prevented charcoal loading were tried. Although the extent to which the relationship between Eureka's Jews and Italians resulted from cultural similarities is unclear, their clustering suggests that they represented a specific segment of Eureka's elite. The outcome of the dispute over higher wages for the charcoal burners may have affected the Jews more than other Eureka's because of their social and economic relationship with the Italians.

The willingness, if not outright eagerness, of middle-class Italians to interact with the Jewish community symbolizes the dissolution of the enclave. Prominent Italians saw interaction with the Eureka elite, but particularly with the Jewish community, as necessary to furthering their class interests. Working-class Italians saw the exclusion of other ethnic groups as the way to protect their interests. Frederick Reichman has argued that non-Italians "were taking a considerable risk if they ventured into the charcoal regions looking for work."⁶⁰ Chinese stayed away from charcoal production "for fear of their lives," and Italians prevented merchants from employing Indians in the trade.⁶³ Like the Butte Irish, the Italian working class exercised the power to exclude other groups, but they failed to achieve an aristocratic status. The real aristocrats among Eureka's Italians were the middle class, and their relinquishment of ethnic ties in favor of class status prevented ethnic solidarity from ever forming in Eureka.

NOTES

¹David M. Emmons, *The Butte Irish: Class and Ethnicity in an American Mining Town, 1875-1925* (Urbana and Chicago: University of Illinois Press, 1989), 134.

²*Ibid.*, 134.

³*Ibid.*, 180.

⁴*Ibid.*, 360.

⁵Jerre Mangione and Ben Morreale, *La Storia: Five Centuries of the Italian Experience* (New York: Harper Collins Publisher, 1992), 31–32.

⁶Albin J. Cofone, "Themes in the Italian Settlement of Nevada," *Nevada Historical Society Quarterly*, 25:2 (Summer 1982), 119.

⁷*Ibid.*, 120.

⁸*Ibid.*

⁹Mangione and Morreale, *La Storia*, 46.

¹⁰Dino Cinel, *From Italy to San Francisco: The Immigration Experience* (Stanford: Stanford University Press, 1982), 197.

¹¹Cofone, "Themes," 121.

¹²Cinel, *From Italy*, 198.

¹³Nevada Legislature, *Journals of Senate and Assembly*, 8th Session of the Legislature of the State of Nevada (1877), vols. 2, 3. No pagination.

¹⁴Department of the Interior, Census Office, *Statistics of the Population of the United States at the Tenth Census* (1880) (Washington, D.C., Government Printing Office, 1883), 520.

¹⁵*Population Schedules of the Tenth Census of the United States* (1880).

¹⁶Paul McBride, "The Italian-Americans and the Catholic Church: Old and New Perspectives," *Italian-American*, 1 (1975), as quoted in Cinel, *From Italy*, 198.

¹⁷*Ibid.*

¹⁸Mangione and Morreale, *La Storia*, 146.

¹⁹Cofone, "Themes," 116.

²⁰*Ibid.*, 121–22.

²¹Robert F. Foerster, *The Italian Emigration of Our Times* (Cambridge: Harvard University Press, 1924), 48. The argument that economics motivated all Italian emigration is a generalization. However, Foerster argues that "a full account of the causes of emigration would require an examination of the conditions in each region of the country" (p. 48). Despite diverse economic, political, and religious conditions in each region, Foerster contends that "commonly economic conditions in them are similar" at times of highest emigration (p. 49). Thus, the reasons for emigration may have varied to some degree by region because Italy is so diverse, but ultimately economics was the primary reason for the majority of Italians.

²²Cinel, *From Italy*, 199.

²³Charles B. Phipard, "The Philanthropist—Padrone," in *The Italians: Social Backgrounds of an American Group*, Francesco Cordasco and Eugene Bucchioni, eds. (Clifton: Augustus M. Kelley, 1974), 93.

²⁴*Ibid.*, 94.

²⁵Franklin Grazeola, "The Charcoal Burners' War of 1879: A Study of the Italian Immigrant in Nevada" (M.A. thesis, University of Nevada, Reno, 1969), 63 n.54.

²⁶*Ibid.*, 16.

²⁷Frederick Reichman, "Early History of Eureka County, Nevada, 1863–1890" (M.A. thesis, University of Nevada, 1967), 49. Reichman cites the *Eureka Daily Sentinel* of 9 July 1879 to conclude that one of the resolutions the burners settled upon once they formed their protective association was that "they would no longer accept payment for their labor in anything but coin. The basis for this complaint was that the charcoal business, which was controlled by a few men, paid the burners largely in orders with certain merchants, who would redeem these orders in goods at a higher rate than was asked for coin" (p. 49). Dale E. Woolley, *The Dames and the American Curly Horse* (private printing, 1993), 78–79, agrees with this view, although he does not offer any sources to substantiate his claim.

²⁸Emmons, *Butte Irish*, 70.

²⁹*Ibid.*, 69.

³⁰*Ibid.*

³¹Lambert Molinelli, *Eureka and Its Resources: A Complete History of Eureka County, Nevada* (1879; rpt, Reno: University of Nevada Press, 1982), 116.

- ³²Eureka County, Nevada, *Assessment Roll*, 1880.
- ³³*Ibid.*, 144.
- ³⁴*Population Schedules of the Tenth Census of the United States* (1880).
- ³⁵*Eureka Daily Leader* (7 July 1879), p. 3, as cited in Grazeola, "Charcoal Burners' War," 35.
- ³⁶Mangione and Morreale, *La Storia*, 199.
- ³⁷Molinelli, *Eureka*, 3.
- ³⁸*Ibid.*, 111.
- ³⁹*Ibid.*; John Bodnar, *The Transplanted: A History of Immigrants in Urban America* (Bloomington: Indiana University Press, 1985).
- ⁴⁰Grazeola, "Charcoal Burners' War," 57.
- ⁴¹*Eureka Daily Leader* (21 July 1879), p. 3; (22 July 1879), p. 3, as reported in Grazeola, "Charcoal Burners' War," 53.
- ⁴²Phillip I. Earl, "Nevada's Italian War," *Nevada Historical Society Quarterly*, 12:2 (Summer 1969), 61–62.
- ⁴³J. R. Monaco, "Eureka, Nevada, 1872–1888," photocopy in author's possession, 7.
- ⁴⁴*Eureka County, Nevada, Deed Index*, 7:390.
- ⁴⁵Monaco, "Eureka," 7.
- ⁴⁶*Eureka Daily Sentinel*, as cited in Monaco, "Eureka," 11.
- ⁴⁷*Ibid.*, 12.
- ⁴⁸*Ibid.*, 12.
- ⁴⁹*Ibid.*, 13.
- ⁵⁰Norton B. Stern, "The Jewish Community of Eureka, Nevada," *Nevada Historical Society Quarterly*, 25:2 (Summer 1982), 114.
- ⁵¹*Eureka Daily Sentinel* (7 March 1879), p. 3, as reported in Stern, "Jewish Community," 104.
- ⁵²*Ibid.*, 104.
- ⁵³*Ibid.*, 96–97.
- ⁵⁴*Eureka Daily Sentinel*, as cited in Stern, "Jewish Community," 97.
- ⁵⁵*Eureka County, Nevada, Deeds*, 6:167.
- ⁵⁶Donald L. Hardesty, Steven R. James, and Eugene M. Hattori, Eureka Historical Building and Archaeological Project, *Report Submitted to the Division of Historic Preservation and Archaeology* (August 1985), 65.
- ⁵⁷Rudolf Glanz, *Jew and Italian: Historic Group Relations and the New Immigration, 1881–1924* (New York: Shulsinger Brothers, Inc., 1970), 32.
- ⁵⁸*Ibid.*, 38.
- ⁵⁹Hardesty, James, and Hattori, *Report*, 66.
- ⁶⁰Reichman, "Early History," 48.
- ⁶³*Ibid.*

NOTES AND DOCUMENTS

JAMES WARREN NYE

George P. Nye

He might have remained an obscure country lawyer had he not possessed remarkable gifts, which made him "one of the truly talented political strategists of the nineteenth century."¹ In an era of great orators, James Warren Nye was a master of spellbinding. He convulsed crowds with his jokes and tall stories. He persuaded people to share his viewpoint. His even greater accomplishments were often carried out behind the scenes, largely unnoticed because of his easy-going style. His political party could count on him to make programs and policies work. Few of his contemporaries in public service ever managed to achieve as much.²

James W. Nye was born June 10, 1810, the seventh child in a family of six boys and three girls. Their father James, and their mother Thankful "Crocker" Nye had moved from the Berkshire hills in Massachusetts to Madison County, New York, where they found fertile land and the opportunity to prosper through hard work.

The family regularly attended the local Seventh Day Baptist church, where sermons were stern and intense. According to young James's sister, Kate, the children looked forward to the excitement and socializing of the sabbath. It afforded a respite from the quiet drudgery of farm chores.

Seeing that going to church was such a treat, the parents would threaten to keep at home any child who disobeyed or broke an important rule. Grandmother Crocker also called upon each of them to recall the text of the sermon and the scriptural verses and hymns. This exercise sharpened the minds of the children, and it grew into a contest to see who could remember the most. James and his sister Kate sometimes shocked their grandmother by mimicking the very mannerisms and tones of the minister.³ Kate could recite 200 verses of the Bible. For his part, James could, in later life, quote Biblical passages whenever he wished.

Their mother and father often took opposite views on political questions, and their healthy debate over issues of the day naturally sparked the children's interest. The father was partial to Federalist positions, while the mother was a Jeffersonian Democrat. Young James tended to think his mother was right.

Formal schooling was hard to come by, so the family gathered in the parlor

at night and the elder James had his offspring read, write and spell. Thankful Nye would sit listening while she worked at some knitting or darning. Books were so few that the Nye children used to read aloud from newspapers that had been handed around the neighborhood.⁴ The newspapers of the day ran heavily to politics. In 1827, a young bachelor schoolteacher arrived, and he boarded with the Nyes. This was an exciting novelty, for after supper he also joined the educational sessions in the parlor.

At the schoolhouse the boys and girls sat on opposite sides of the room. There was no grade placement; each student progressed as his or her ability permitted. Textbooks were pretty much limited to Webster's speller, Murray's grammar, and Morse's geography.⁵ Periodically, young James Nye would fall behind in his schoolwork, and then work feverishly to catch up. His chief rival student was the daughter of the village doctor. Once, when the teacher offered a cash prize to whomever could complete a certain assignment first, everyone expected the doctor's daughter to win. With herculean effort, however, James completed his back assignments and the new project as well. The contest ended in a tie.

Urged onward by his mother, James enrolled for a year in the best preparatory school in the area, Cortland Academy, before matriculating at Hamilton Seminary (a theological school which later became Colgate University). At Hamilton the tuition was \$16 per year, with \$1 per week for room, board and laundry. Four instructors taught eighty students. James may have found the curriculum too rigid and serious—or the expense too great. At any rate, he stayed for just one term.

He worked for awhile as a clerk in Mansion House, a hotel owned by his older brother. For four years he drove a stage to Syracuse and Albany. During such long journeys passengers were glad to have a cheerful, loquacious driver. Mingling with people gave him a chance to see how well he could charm and amuse them. It was said that one of his passengers was an attorney who persuaded Nye to study law at his office.⁶

When the new law firm of Sweet & Sherwood opened in DeRuyter, Nye, being well known in the town, was hired as a clerk. Learning law as he worked, Nye passed the bar in 1839. He was only twenty-nine. Sweet & Sherwood dissolved that same year, but Sherwood invited Nye to join him in Hamilton, a larger town. That same year he also married Elsie Benson, of old New England ancestry. Unfortunately Elsie disliked the limelight as much as he liked it, and they began to live separate lives, Elsie staying at home with their daughter Mary, born in 1842, and son Charles, born in 1849. There was never a divorce.

When not handling legal matters, Jim was active at Democratic political rallies, fraternal gatherings and the local militia—all of which kept him in the public eye. He rose through the New York militia to the coveted rank of major-general. During court sessions people liked to be present in order to hear Nye deflate the opposition, or even the judge himself. One time a judge is said to have

asked, "General Nye, what do you think I am sitting here for?" With a twinkle in his eye Nye replied, "You've got me this time, Your Honor." ⁷

His debut in politics was hampered, however, by the fact that the Democratic Party was breaking up. Martin Van Buren had been defeated, and in New York the so-called Radicals had won a large measure of power. During this period Jim carefully avoided extreme positions; he cheerfully stumped for candidates once they were on the party's slate, and he was rewarded with a sinecure which afforded some prestige and income.

By 1847 the Democratic party was in worse disarray, but Nye won his first election. At 37 he became judge of Madison County. At the next presidential nominating convention of the Democrats, Nye joined the delegates (called Barnburners) who walked out and returned to New York City. There they held fiery rallies denouncing convention tactics. Nye roared, "We are told 'Your sin is that you are advocates of human freedom—that you are opposed to the extension of human bondage' [admission of Texas as a slave state]. I glory in that sin . . . there are thousands around me who say they will never repent of that sin." Hecklers shouted and Nye retorted in kind. ⁸

During an August heat wave Nye went with the Barnburners and dozens of other discontented splinter groups to the Free-Soil convention in Buffalo. The James K. Polk administration was denounced. In a deep, clear voice Nye stated the Free-Soil position in emotional terms: "If we are wrong on the Tariff, it can be righted in twelve hours. If we are wrong on banks, it can be righted by legislation. But if we are wrong on the subject of Slavery, it can never be righted. The pervasive evil of human bondage will reach down to posterity, inflicting curses and misery on generations yet to come." ⁹

The next day, when there was disagreement as to whether Charles Francis Adams or Frederick Douglass should address the delegates, Nye was asked to speak again: "It is a contest between a Whig and a negro, and they have agreed to compromise on you." Nye was then called on to campaign in other sections of the country, first in Pennsylvania, then through New England and in the West, where he met Abraham Lincoln. Pleading vainly for the Democratic administration to take a firmer stand, Nye pointed out that slavery existed only where it was legalized state-wide. "What is the inference? That slavery creeps into a state in its weakness, and cannot be ejected in its power." ¹⁰

In the months that followed, he was persuaded against his better judgment to run against the incumbent congressman William Duer. Duer, who won, already held much the same position on slavery as the Free-soilers and was a veteran campaigner as well. Nye continued to be active politically, and was often called on to speak. He had been inveighing against the extension of slavery; now he vehemently called for its abolition. In the Jerry Rescue Trial, involving New Yorkers who rescued a runaway slave named Jerry, Nye assumed the defense. He denounced the Fugitive Slave Law, and he cross-examined Jerry's owner so intensely that the man pretended to be ill and left the stand.

Nye's spirited invocation of "higher law" on this occasion pleased Governor William Seward, who had personally put up bail for the defendants, and Nye's antislavery eloquence, more extreme than even the views of fellow Barnburners, caused Madison County to elect an abolitionist for the first time.

When Franklin Pierce became the Democratic candidate for president, Nye was called on to campaign for him, and he did so with great energy even though, as one newspaper put it, Pierce had "done nothing to remember or forget."¹¹ When opponents pointed out that Pierce had fainted during a Mexican War battle, Nye surveyed the crowd "with the indescribable power of suppressed emotion" and exclaimed "as for me, give me a man who fights until he faints."¹²

Pierce won, but for all Nye's effort the administration offered him no appointment. Embittered, the young lawyer concentrated on his practice and asked the Democratic organization to take his name off their speaking schedules. Over a year later he happened to be riding in an omnibus which got into an accident. He was on crutches for months, and his voice was temporarily impaired by the injuries. He could not campaign.

Finally, in 1855 he returned to politics, joining the Democratic convention as a proxy delegate from Suffolk County (his residence was New York City). His enemies on the organizing committee sought to exclude him because of his Barnburner connections and they presented a motion to that effect. Nye arose and confessed his "humiliation" at this. He expressed "astonishment that the committee should [go] so entirely beyond their powers." The people of Suffolk must wonder "why it was that the voice of the man they empowered to choose a substitute should be challenged here."¹³ A spokesman replied that it was odd that Suffolk could not find someone among their residents to serve. They "might as well have gone to Virginia as to New York City." "That, sir, is a matter of taste," Nye retorted, as the crowd tittered. Nye was seated, but he was near the end of his patience with the Democrats.

The new Republican Party was barely established, but its policies were more to his taste. When he finally switched allegiance, joining Governor Seward, he brought many of his followers with him. One opponent jeered that Nye was a "bottle-holder for Gov. Seward," just as he had been for the Democratic leader. General Nye good-naturedly replied that he "consoled himself in the fact that now he would not have to pull the cork so often."

After several more skirmishes in the political wars Nye found himself on the metropolitan police commission of New York City. He had taken the job against his better judgment, as a favor to the governor, who was creating a state-run police force to replace the corrupt city police. The mayor obstructed the change with every trick he knew. New Yorkers, inclined to hate any intervention by the Albany gang, initially sided with the mayor, but when he suddenly disbanded the city police before the new forces were in place, the worst criminals and gangs engaged in "bloody saturnalia." The national guard had to be deployed, and bullets and bayonets brought order again. Nye was involved in this impossible

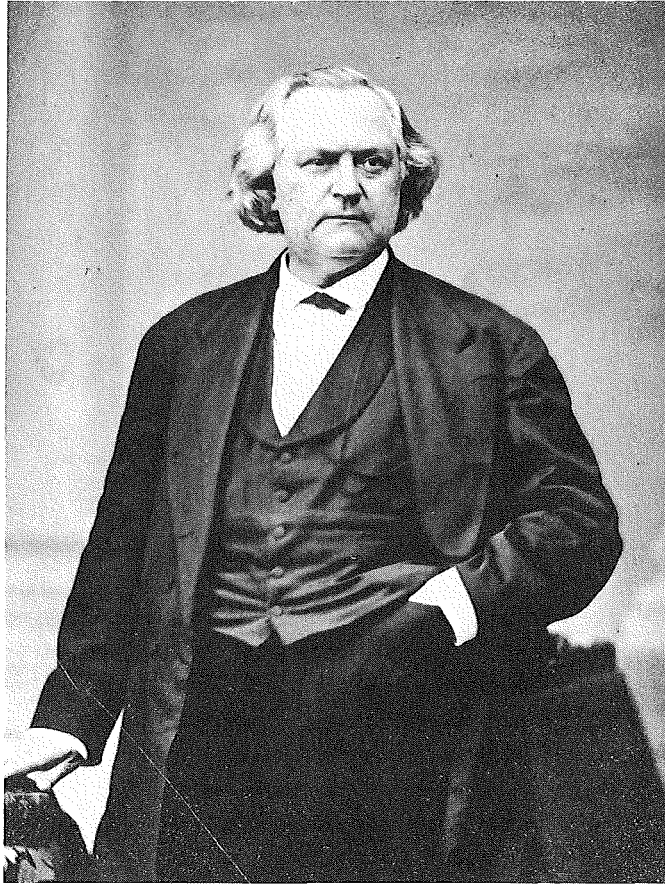
situation, doing the best he could in the face of fierce sniping by the newspapers. He became president of the commission, and created harbor patrols and mounted police. Close-order drill brought pride to the units. Mug shots and wanted posters were circulated for the first time. Mayor Wood, up for reelection in 1857, is said to have tried to make a deal with Nye but was rebuffed. Nye made a supreme effort to have the police functioning perfectly on election day. "Keep the peace today," he pleaded; "I only feel anxious about today. If you keep the peace today, the character of the Metropolitan Police is established." He urged the commissioners to visit the polling places, and he did so himself. Senator Stephen Douglas of Illinois and Governor Crittenden of Kentucky accompanied him in his carriage. Mayor Wood was defeated in the election.

When the time came for Nye to leave the metropolitan commission, he was thanked "for the impartial manner in which he has discharged his duties as President" and assured that he left with "the cordial good wishes and the hearty esteem of his associates."¹⁴ But there was a cloud of innuendo. Nye had represented many patrolmen, most of whom were caught in the web of changeover from city to metropolitan forces. It was alleged that there was conflict of interest in his accepting payment for legal services, although Nye had denied it. Therefore, in his farewell speech he said, "When reason shall have assumed the place of political prejudice" no legislation "passed within the last quarter century" would reflect more credit upon "the wisdom of those who formed it . . . than the law under which we have been organized."

An editorial tribute to the general appeared 20 May 1859, in the *New York Times*, which had often been critical of him. It confessed that Nye had been badly treated, observing that he forgave his enemies and left them with "the remorse which he is quite certain they will suffer for their harsh treatment of him." In doing so he was "quite sensible, slightly complacent . . . It is quite characteristic of the General, who is as incapable of malice as he is of anything savoring of meanness and illiberality . . . We should be sorry to think that anyone—and still more sorry to think that we ourselves—had ever abused one whose cordial good feeling would disarm resentment."

The following year Jim Nye organized Governor Seward's campaign for the presidency. Nye attended the Republican convention in Chicago with a large contingent of enthusiastic Seward supporters. Two other candidates also vied for the nomination: Abraham Lincoln and Edward Bates. On the second day, Bates withdrew in favor of Lincoln, who then was soon nominated. Although disappointed in the outcome, Nye persuaded Seward to join the Lincoln bandwagon. He also was instrumental in the naming of his friend Hannibal Hamlin for the vice-presidency. Nye admired Lincoln and made hundreds of speeches for the Republican cause. The two men had much in common, so they naturally became close friends.

Accompanied by Seward and Seward's daughter, and his own daughter Mary, Nye made Illinois speeches in the wake of Senator Douglas to counteract Doug-



James Warren Nye, Governor of Nevada Territory. (*Nevada Historical Society*)

las's arguments. To those who declared the Republicans would destroy the Union, Nye insisted, "That cry has ceased to frighten children." He could not decide whom to condemn more, "the rascal who threatened disunion, or the coward who feared it." One of the local reporters said no report of the General's speeches would do him justice, "for he speaks as much with his countenance as with his tongue."

After the election Lincoln made Seward his secretary of state, and appointed Bates attorney-general. Nye had stated that he wanted the office of surveyor of the Port of New York, but Seward recommended that he become governor of the Nevada Territory, perhaps feeling that the experience of running the Metropolitan Police might have been a good preparation for bringing law and order to the frontier population there. Indians were being displaced by ruthless prospectors, and among the new settlers there were many Copperheads and outlaws. Lincoln was determined that Nevada would become a free state and

help ratify the Thirteenth Amendment. He scratched out the name of Rufus King (whom he was considering for the territorial governorship) and followed Seward's recommendation. A supporter of Bates, Orion Clemens, was made secretary of the Nevada Territory.

General Nye had mixed feelings about the honor. It meant traveling far away from dear friends and family into an uncertain future. At the same time it was a golden chance to serve the nation in an important role.

After the fall of Fort Sumter, Washington, D.C. became a Union outpost inside the Confederacy, defended by a single company of Minnesota regulars and a few Pennsylvania volunteers. For the time being, Nye was asked to assist Cassius Clay of Kentucky in organizing additional volunteers. Their unit, which included an ex-governor and several congressmen, was never tested in warfare, but some members reconnoitered Alexandria and Maryland informally, and in disguise. Nye happened to be in Baltimore when a Massachusetts regiment, changing trains, was attacked by a mob. Four soldiers were killed and seventeen injured. Nye later recalled, "I cried out against the murderous action, and almost before I knew it I was in jail."

Back in Washington, General Nye welcomed the units of Union soldiers as they arrived. His volunteers seemed superfluous now, but they continued their search for traitors. When they found that some shell cases were being loaded with sawdust and sand, Nye marched his band to the Navy Yard and arrested five saboteurs.¹⁵

Years later he reminisced in a Senate speech: "I was in Washington in that trying hour"

A senator from Delaware interrupted, "Did you fire a gun?"

"No!" Nye confessed. "The rebels didn't come as we expected. They disappointed us."

His questioner shot back: "Then I wish to claim equal credit I too was present on the memorable occasion."

"Did you fire a gun?" Nye mocked.

"No!" exclaimed the senator. "But I must remind the gallant senator from Nevada that in the bloodiest battle in which he was ever engaged, I was by his side." The Senate roared with laughter, and Nye joined in, even though the joke was on him.¹⁶

After the volunteer guard was disbanded, the General is said to have offered to join the Army in actual combat, but he was assured that his work in Nevada would achieve more for the Union. He therefore prepared for his new career in the West, appointing many of his political friends to minor offices. The whole entourage set sail on the *Ariel* in June 1861 for Panama. They reached San Francisco about a month later and were warmly welcomed. A local paper described Nye as "one of the jolliest orators that ever stumped a state. When he was a Democrat, all of the Whigs went to hear him, and when he was a Republican, you couldn't hire the Democrats to stay away."¹⁷

Finally Governor Nye reached Carson City, where he was greeted by such a noisy celebration that he postponed his speech until after he had refreshed himself in a hotel. The windows were wide open, and while Nye was inside an outlaw began threatening the crowd. A deputy disarmed the man and left his pistol with a bartender. Thereupon the outlaw retrieved his pistol and the deputy shot and wounded him while the crowd shouted encouragement.

When Nye emerged to speak, he probably had lost any illusions he could have had as to the task ahead. His words, in part, were as follows: "With the most heartfelt emotion I greet you. I come among you with a full appreciation of the important duties devolving upon me as chief executive of the new territory Allow me to assure you that not one star shall be permitted to be removed from the old [34]. Twenty-five million free men will not permit it. And I have come to this distant country with the hope of adding one more—a bright and glorious star—*Nevada*."

The crowd cheered, and then fifty Chinese musicians played an intentionally discordant serenade, a weird caterwauling such as Nye had never heard. Politely, however, he clapped, but when the crowd burst out laughing he realized that he had been tricked. He then "joined in with a hearty guffaw," which "got him off to a good start in the frontier territory" ¹⁸

Two days later the governor was paraded through Virginia City, with so much pomp and circumstance that that town got itself into debt. The parade passed under a floral arch decorated by the town's prostitutes. With the miners in mind, Nye declared, "Nevada is a solid country because it has a true metallic ring." During an outdoor speech he was once interrupted by the braying of a donkey. The crowd laughed. Unruffled, Nye declared, "Ladies and gentlemen, that does not disturb me in the least. I have never tried to make a Republican speech in Nevada that the opposition has not trotted out its best speakers to try and down me."

A few months later the sheriff was murdered in Carson City and a reward was offered for the murderer, dead or alive. When the culprit was captured, some secessionists threatened to set him free again. Governor Nye quickly summoned soldiers from Fort Churchill. As the Civil War went on, more military camps were established and garrisoned in the region, and Nye became commander-in-chief of the territorial militia, determined that no secessionist plot should wreck his dream of Union statehood.

In an early proclamation he announced the creation of a system of courts, naming judges who would serve until there was an election. He also called for a census. So many people were moving around that a true count was impossible. In August, 1861, 16,374 were counted, not including Native Americans, and by October there were about 4,000 more. When polled as to their desire for statehood, Nevadans favored it by a vote of 8,162 to 6,660.

Ministers were hard to find, even in Carson City, so the Governor sometimes conducted church services himself. He even suggested a curb on Sunday drinking



Orion Clemens, Secretary of Nevada Territory (*Nevada Historical Society*)

and gambling, which, amazingly, was adopted. He also strove to correct the frontier bigotry which was contributing to the violence. Indians and all foreigners, especially Chinese were being persecuted, and relations with the Utah Mormons were tense. When fugitives from Utah were pursued into Nevada by some Mormons called "avenging angels," Nye confronted the "angels" with the vow that he would "hang every one of them" if they did not leave Nevada at once. Especially repugnant to Nye was a Nevada act stating "no black or mulatto person or Indian or Chinese shall be permitted to give evidence for or against any white person."¹⁹

Nye's clerical work became easier when the Clemens brothers, Orion and Samuel Langhorne, finally arrived. They found him "elaborately domiciled in a one-story, two-roomed white frame palace. It compelled respect of the citizens and inspired the Indians with awe."²⁰

Governor Nye next decided to go to Sacramento and use the California State

Library and the advice of Governor John Downey in planning his first message to the territorial legislature. "He discovered that the Governor of California was a jolly good fellow after his own heart . . . Downey invited him to go up to the Marysville fair with him . . . The two governors had a whale of a good time together." ²¹

When Nye's forensic talents were borrowed by California candidate Leland Stanford, the *Marysville Appeal* described him as follows: "about 48 years of age, and of respectable size, carrying about a bushel of dead weight in front of him." As for his oratory, Nye's "camp-meeting style" was not "exactly calculated for a California public."

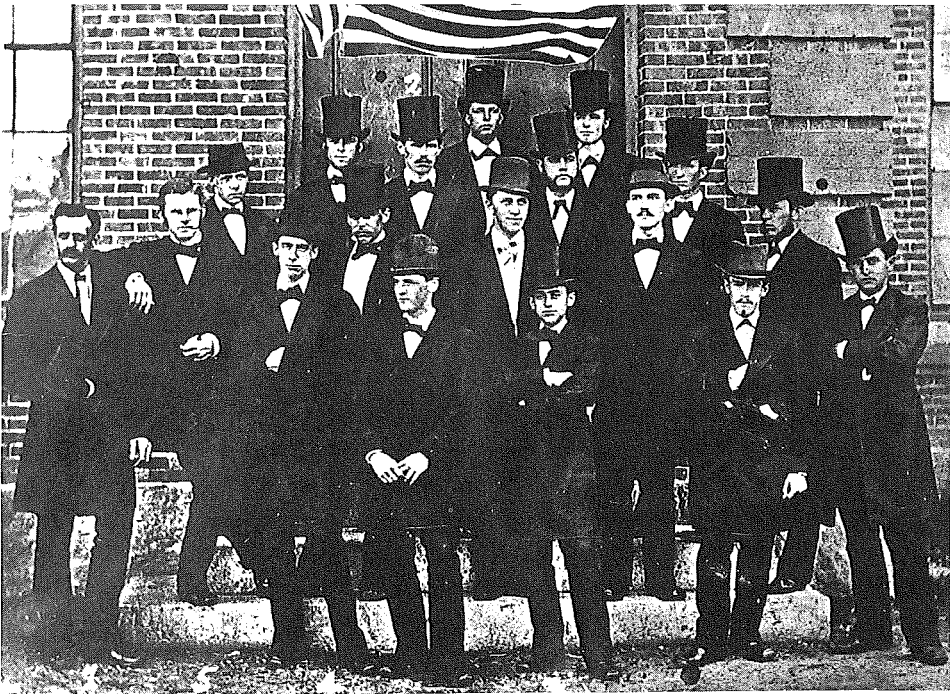
Nye's popularity with that public waned considerably after he suggested that some of California ought to be part of Nevada. He was advised to "confine himself within his own limits and not attempt to rule all creation." ²² The Californians would not yield any land, but later on Nye persuaded Congress to take a degree of latitude from Utah and add it to Nevada.

As superintendent of Indian affairs, Nye received an additional \$1,000 per year. In this capacity he met with the Paiutes, telling them he was chief of the region and assuring them they would be treated the same as Euro Americans. He promised them horses, cattle and farm tools if they would remain friendly. He then kept his promise, and they vowed to keep the peace. Peace could not last long, however, because the rush of prospectors drove the Indians from their ancestral lands. Sometimes the settlers were robbed, or their livestock was driven off. Nye had to send troops on many occasions.

Troops would have been employed much more often if it were not for Nye's charisma. Indians were fascinated by the governor. According to Mark Twain: "Many and many is the time I've seen him stand up and smile on his children (Washoes and Paiutes), as he called them in his motherly way, beam on them by the hour out of his splendid eyes and fascinate them with his handsome face, and comfort them with his persuasive tongue; seen him stand up and tell them anecdotes and lies, and quote Watts' hymns to them, till he just took all the war spirit out of them and sent them away bewildered with his inspired mendacity." ²³ When Nye went to meet Chief Winnemucca, the military contingent was halted, and the Governor advanced to the parley in an unthreatening manner. ²⁴ Another way that Nye avoided armed conflict was to distribute free rations.

The federal government furnished \$75,000, which was for the construction of a sawmill to cut lumber from which houses for the Indians would be made. Nye found a suitable place for the dam on the Truckee River, but somehow very little of the project was carried out. Newspapers gleefully declared that he had "a dam by a mill-site, but no mill by a damsite." It was obvious that far-flung Nevada did not lend itself to the same kind of hands-on management as the Metropolitan Police.

An entry quoted from a contemporary diary is revealing. A citizen had been



Samuel L. Clemens and his fellow-journalists in the "Third House," a parody of the Territorial Legislature. The clean-shaven Clemens is second from the left, leaning on the shoulder of Jack Simmons. (*Nevada Historical Society*)

brutally murdered in Aurora and a "citizens' protective body" was organized, numbering 350 men. The events of the next two days were set down as follows:

The Sheriff being at Adobe Meadows in search of Buckley, the Deputy Sheriff & Marshall's houses were guarded and they were requested to keep within doors. At half past one p.m. John Daley -- Wm. Buckley -- John McDowell (Alias three Fingered Jack) & Jas. Masterson were hung. Gambling and saloons were closed last eve'g. Today all saloons, stores closed. Mining and all business suspended. A trying day for Aurora. Gov. Nye telegraphed me there must be no violence—but the people are the masters. My dispatch to the Gov. "All quiet & orderly. 4 men will be hung in half an hour."²⁵

The power behind the throne, in a manner of speaking, was William Stewart, a wealthy Nevada lawyer who became a close friend of the governor. Stewart helped frame the laws for the soon-to-be state. Later, when Nye became senator, Stewart was the other senator. He had a fine house, very suitable for a governor, which he sold to Nye.²⁶

Lincoln's goal of statehood for the Nevada Territory was not a leading issue in Congress, even though the president advocated it in several messages to that body. He praised Nye's success in suppressing treason and he extolled the natural resources of the region. In December 1863, Governor Nye came to Wash-

ington, D.C. to see whether he could get Congress to act. Many congressmen were already his friends, as were many in the executive branch. Nye stressed the urgency of the Nevada bill and persuaded some to sponsor it, notably Senators Wade of Ohio and Latham of California. The bill setting the stage for Nevada statehood was finally passed in March, and Nye sailed again for the West.

There were, of course, problems in Nevada while Nye was gone, and some local newspapers were uncharitable in their commentary. In July the *Sacramento Daily Union* noted "Ex-Governor Nye²⁷ of Nevada Territory passed through Grass Valley Thursday last, en route for Washoe. He looked, despite a thick coating of foothill dust and numerous channels of perspiration down his majestic front, the personification of jollity . . . the 'ex-Governor' took brandy and ice in his'n while sojourning here. He did not seem to be in any great hurry to get back to his gubernatorial duties . . ."

Although statehood promised better conditions, a first-draft Nevada constitution had been voted down. Under Stewart a more acceptable constitution was soon drafted and passed.

On October 31, 1864, a few days before Election Day, Nevada was proclaimed a state. Nye then delivered its vote toward Lincoln's re-election. As quickly as statehood became a fact, its legislators named Stewart and Nye as United States Senators.

Commenting on Nye's work in Nevada, one paper editorialized, "Certainly [Nye] is the best man for the office that could have been chosen—being a shrewd, far-seeing and courteous man . . ." Another had declared: "He is making for this distracted and neglected Territory a good Governor . . . bold, fearless and energetic, he manages the bad men, who form so large a part of our community here, in a manner indicating how extensive has been his experience in dealing with the rougher elements of society."²⁸

When they arrived in Washington, D.C., Senators Nye and Stewart were the objects of much attention. The *Chicago Tribune* reported Nye

a man of large frame and appetites, a native orator, with a most impressive appearance: his hair is long, luxuriant and prematurely whitened, a fat priest-like face, prominent brows, no beard, large bluish-gray eyes, a large mouth filled with white teeth, and a stoutish, genteel body. He is the *best speaker* on instantaneous occasions in the United States. He has the quality of imagination, of which [the senate] is almost destitute, Sumner having a little, Nye having all the rest . . . Yates and Nye both appeal to the deity . . . But Yates expires with an invocation . . . Nye is vivid and fertile with a description full of Irish humor, broad exaggeration—equal to the most exalted buncombe: he is the master of forensic demagoguery. His cunning and good nature glide into and conceal each other . . .²⁹

For a free and easy supper or dinner, he is the best man in the Senate to invite out. As a politician, he is a good outrider and "stumper" but his vanity is often stronger than his discretion. As an opponent in debate he is sometimes magnanimous but frequently blistering and bilious with humor between, like thunderclaps in sunshine.

From the same newspaper comes this account of how Nye stood up to the

secretary of war. When he "went to [Edwin] Stanton to make a petition for some dead soldier's orphans during the darkest days of the war, Stanton said, 'I have not time, Mr. Nye, to see what you want.' "

"Suppose you take the time," said Nye.

"You are unreasonable, Mr. Nye, in pressing such a thing at this time."

"If you were not a United States Senator, I should say you are making a damned fool of yourself," replied the Gray Eagle, with his eyes blazing.

Stanton looked at him a moment, and then softening said, "Maybe I am, Jim -- come inside and tell me all about it."³⁰

The years in the Senate were probably the high point of Nye's career. He had accomplished his goals. He had campaigned successfully for the Union; he had been Governor of the Nevada Territory; and he had been elected to the United States Senate, where he was respected and acclaimed by his peers. He did not propose much legislation, but one project was dear to his heart—the location of a mint in Carson City. He worked hard for that, as he did for other things beneficial to his constituents.

When his term expired and he stood before the Nevada legislature for reelection, the campaign was nasty. An old political adversary with Copperhead sympathies, Charles DeLong, tried his utmost to depict Nye's governorship as corrupt. Senator Nye could not remain silent this time and expect his traducer to feel pangs of remorse. DeLong paraded every old rumor of scandal through the newspapers, and Nye had to respond to each accusation with exculpatory correspondence, official documents and statements of fact. The Carson City editor, friendly toward Nye, printed the accusations and responses side by side. The missing "mill by a damsite," for example, which had been blamed on Nye, was seen to be the responsibility of an Indian agent named Warren Lockhart, who had grossly and falsely exaggerated the amount of work completed. Lockhart's letter to Nye was printed. As for \$80,000 that Nye was said to have squandered while he was agent for Indian affairs, government documents showed that the actual amount was far less, and most of that expense was for purchasing goods in the East, and for shipping them. In the case of a criminal who was pardoned, but should not have been, Nye had been in the East at the time. A Justice of the Supreme Court of Nevada testified: "I am certain that when John Harrold was discharged from imprisonment at Fort Churchill in the spring of 1863, Governor Nye knew not of his arrest, much less . . . attempted to use his influence . . ."

It was a slugfest, with many swipes of the tar brush. When the Nevada legislature finally voted in January 1867, DeLong was ahead by two votes, but was still two votes shy of the required number. Before the second ballot was taken, two minor candidates dropped out in favor of Nye. The Gray Eagle won again. Six years later, however, when he ran for a third term, he was defeated.

The fact is that even before 1873 he was losing his powers, both physical and



Charles DeLong. (*Nevada Historical Society*)

mental, and rather rapidly. We can only speculate as to why this happened. It could have been Alzheimer's disease. He suffered greatly, also from rheumatism, and his lifestyle—so many banquets with alcohol—may have seriously damaged his health. He had not saved any money. His wife and his only grandchild had

died, the latter having been named for him. He was said to have imagined himself dead and waiting for his coffin.³¹

His daughter Mary took him to Florida for a rest. On the way back to her home in Washington, D.C., the General disappeared; only after a search was he found in the Richmond railroad station. Partly dressed, he had left the train and did not know where he was. Unable to look out for him properly, Mary finally had him confined to an asylum in Flushing, New York. It was Sanford Hall, a beautiful building surrounded by gardens and fields. Only relatives and a few particular old friends were allowed to visit him.

Even before he passed away, eulogies appeared. The *Gold Hill News* stated, "There are hundreds of people in this portion of Nevada who, differing widely from him in politics, yet learned to admire his splendid social qualities and the brightness of his intellect . . . during the dark days of the war, when rebellion against law was frequent and sometimes successful for a period, and when traitors assumed the garb of patriots . . . remember how his voice rolled out over the heads of the multitudes, commanding them to loyal service, entreating them to faithful action . . . [We] can hardly realize the sadness of the change that now overshadows . . . his few remaining days."³²

He died on Christmas Day, 1876. "When he passed away, a little pocket notebook was found among his effects. Written in pencil on the flyleaf of the book was the following message 'Dear General—come up tonight and swap jokes. (signed) Lincoln.' "³³

NOTES

¹Jud Burton Samon, *Sagebrush Falstaff* (unpub. Ph.D. diss., U. of MD, 1979), 1. Mr. Samon died before he could publish his work.

²*Ibid.*

³Kate Nye-Starr, *Self-Sustaining Woman* (Chicago: Illinois Printing & Binding, 1888), 21. Later in the book, Kate says she and the governor milked cows during her visit to Carson City, 1862-63. Her brother John would not help with such lowly chores.

⁴*Ibid.*, 161.

⁵For a description of these books see George Nye, *Nineteenth Century Seafarers* (Sandwich, MA: Nye Family of America, 1993), 79.

⁶Effie Mona Mack, "James Warren Nye," *Nevada Historical Society Quarterly* (July-December 1961), 10, tells of Nye "earning a livelihood walking the towpath" of the Erie Canal. She states that he attended Homer Academy, as does L. Bert Nye, Jr. in *American Nyes of English Origin* (E. Sandwich, MA: 1977), 438. Her account of his early years is in some ways different from that of Jud Samon, perhaps because she relied upon western newspaper sources. Many stories about James Nye were exaggerated and altered as they were repeated.

⁷*Syracuse Herald* (23 January 1877), quoted in Samon, *Sagebrush Falstaff*.

⁸*New York Herald* (7 June 1848).

⁹*New York Tribune* (12 August 1848).

¹⁰Samon, *Sagebrush Falstaff*, 211.

¹¹*Albany Evening Journal*, (7 June 1852), quoted in Samon, *Sagebrush Falstaff*.

¹²*Ibid.*

¹³*New York Times*, (31 August 1855).

¹⁴E. D. Morgan Papers, New York State Library, Albany (quoted in Samon, *Sagebrush Falstaff*, 178). In the *Alta California* (19 January 1877) p. 1, it was recalled that New York merchants showed their appreciation of Nye's services by presenting his wife with a fine residence.

¹⁵*New York Times* (1 May 1861).

¹⁶*Virginia City Evening Chronicle* (28 March 1876). Nye's laughter was legendary. *The New York Herald* (16 September 1860), reports, for example, "Nye's rotund frame literally shook with jolly guffaws, and it was feared at one time that he would have to be hooped up to prevent a general explosion."

¹⁷Cited by Mack, "James Warren Nye," 15. The same newspaper fretted about the delay in getting the territory organized, pointing out that "there are a few who would like to see it trampled in the dust of Southern secession and rebellion."

¹⁸Frank C. Robertson and Beth Kay Harris, *Boom Towns of the Great Basin* (Denver: Sage Books, 1962), 277. (quoted in Samon, *Sagebrush Falstaff*, 256)

¹⁹Nye declared that "all persons of all races that are held amenable to law, who share in its protection and are subject to its power, who are visited by its penalties and taxed for its maintenance should be allowed to testify before the law . . ." Justice demands "shedding of all light possible upon questions of adjudication."

²⁰Mark Twain, *Roughing It* (Hartford, CT: American Pub. Co., 1872), 163. His comments, of course, were usually exaggerated in order to amuse. Samon points out also that Clemens started to portray Nye as a buffoon after Orion Clemens's political career foundered.

²¹Mack, "James Warren Nye," 22.

²²Samon, *Sagebrush Falstaff*, 272. Nevada wanted to slice as much as twenty miles from Sierra, Plumas, Shasta, and El Dorado, and take nearly all of Mono counties. Residents of those areas were cut off all winter from the West. Only a few paid any taxes. Governor Nye said his request was "but an acquiescence to the verdict of the Almighty" who set the Sierras there. He declared that Californians and Nevadans share the same interests—"the only difference is that here they dig their gold from the soft ground, while there they pound it from the solid rock." *Sacramento Union* (24 March 1862), p. 3, col. 6.

²³Mark Twain, *Autobiography*, Vol. II, p. 307. Although Twain was part of Nye's circle at the outset, he later became a Nye critic. Scholars feel that Twain blamed the Governor for brother Orion's inability to become a political power.

²⁴Mack, "James Warren Nye," 23.

²⁵Ethel Zimmer, ed., "Colonel Samuel Youngs' Journal," *Nevada Historical Society Quarterly* (Spring 1959), 56.

²⁶Governor Nye put the house in the name of his wife, Elsie, and he may have tried to persuade her to come west to live. The property was part of his estate when sold in 1882 by their two surviving children.

²⁷While Nye was away, Mark Twain's brother Orion served as acting governor.

²⁸*Daily Alta California* (12 January 1862), and *Marysville Appeal* (5 and 22 December 1861), quoted by Samon, *Sagebrush Falstaff*, 268.

²⁹The passage was copied by the *Sacramento Daily Appeal* (19 June 1869).

³⁰Nye was dubbed "the Gray Eagle of Liberty" while campaigning for Republicans in the Golden State. The title previously belonged to a noted Californian orator, Colonel E.D. Baker, who had passed away.

³¹Nye, *American Nyes*, 438. A second grandchild, born after Nye died, lived only a few years.

³²Reprinted in *Alta California* (24 May 1875), p. 2.

³³Mack, "James Warren Nye," 55.

BOOK REVIEWS

Casino: Love and Honor in Las Vegas. By Nicholas Pileggi. (New York: Simon & Schuster, 1995, 363 pp., index.)

Many know Nicholas Pileggi as the author of *Wiseguy* which was made into the movie *Goodfellas*. From this book *Casino, Love and Honor in Las Vegas* has been created the popular 1995 movie *Casino*. It professes to be the story of Frank "Lefty" Rosenthal who played such a public role in fighting the state of Nevada authorities when they refused him a gaming license in the 1970s, and of mobster Tony Spilotro, his good and long-time friend who hit the Las Vegas scene in 1971, and who soon, in Pileggi's words "was running the town." Rosenthal and Spilotro had been old-time buddies since growing up in Chicago.

By background, Rosenthal was a sports gambler, noted for his obsession about details and for shady dealings which had gotten him into trouble with authorities in Florida, North Carolina, and Illinois. Like many hoodlums hounded by the law, he ended up in Las Vegas, where the action seemed to be and where gambling was legal. Las Vegas "was the final destination for those willing to drive halfway across America in search of the nation's only morality car wash." (p. 13) He fell in love with Geri, a high-priced hustler who serviced high-rollers, and, although she did not return his affections, the couple soon married. Lefty decided to "settle down," that is—work in a casino. Because of his natural talent for figuring odds and his old-time connections, he was given increasingly important positions at the Stardust and with Argent Corporation, until in 1976 he was forced to apply for a gaming license as a key employee. The Gaming Control Board refused his application because of his disreputable past, but Rosenthal appealed the decision in every available court, and he continued to run the Stardust, masquerading under inferior job titles.

Tony Spilotro, his good friend, was a rougher customer—a killer by instinct and practice. He "owned a couple of guys in the sheriff's office. He had guys in the courthouse who could get him the grand jury minutes, and he had people in the telephone company to tell him about phone taps." (p. 144). Powerful Sheriff Ralph Lamb had tried to run him out of town but had not succeeded. "Spilotro was wired, he was tailed, he was harassed, he was arrested, he was indicted." (p. 163) But, always supported by lawyer Oscar Goodman, he was never convicted. According to Pileggi, in Spilotro's "first five years in Las Vegas, there were more murders committed than in the previous twenty-five." Although

mobsters ran the Stardust, the state seemed powerless to do anything about it. In the words of George Hartman, an associate of Rosenthal:

"The problem with lots of casinos back then was that no one ever really knew who owned them. I don't care what the mortgage says, the ownership of most casinos was so tangled and went back so many years with so many silent partners and half partners and fronts and point holders that nobody from the outside could ever figure it out, and lots of people inside never figured it out either." (p. 97)

Enter Allen Glick, a slick, smart San Diego real estate dealer, who, through a loan from the Teamsters Central States Pension fund, bought control of Argent Corporation. On the surface this presented a beneficent example of business entrepreneurship, of capitalism on the move—all the good things that Nevada state authorities desired. The reality, according to Pileggi, was far more sinister. Through the Teamsters connection, the mob seized actual control of Argent and Glick was merely their front man. Between 1974 and 1976, the boys from Chicago and Kansas City skimmed between 7 and 15 million dollars from the Stardust and Glick didn't appear to have the foggiest idea of what was going on. At least he was dismayed that his corporate enterprise persistently refused to operate in the black. Pileggi suggests, however, that Glick also had his fingers in the till, unbeknownst to the mob.

To bring the whole dreary story to a close, Frank and Geri's marriage began to deteriorate from its already abysmal level—she drank and took drugs too much, and he womanized and abused her. In turn, Geri had an affair with Frank's soon-to-be former friend Tony Spilotro. Mob control of Argent corporation soon began to unravel, as the Kansas City mob leaders were successfully brought to trial through FBI wiretaps. Spilotro was severed from that case because of a "heart condition," but in 1984 he and his brother were murdered, in a crime still unsolved, and buried in an Indiana cornfield. In 1983, Lefty Rosenthal left for California. Geri died because of her self-destructive lifestyle and, in 1986, Rosenthal was placed into the state's black book, never to be allowed into a casino again. Significantly, Pileggi notes that 1983 was also the year that Steve Wynn bought the Golden Nugget, beginning the process by which Las Vegas turned into "an adult theme park."

According to Pileggi, what brought the mob down was its *hubris*. It overreached and devoured itself. As Frank Cullotta put it, "It should have been so sweet. Everything was in place. We were given paradise on earth, but we fucked it all up." (p. 348) Also indispensable in eliminating the power of the boys was the FBI taping of their conversations. The tapes caught some of their more egregious braggadocio. What did *not* bring down the mob was the painstakingly-erected regulatory apparatus put together by the state of Nevada; in the book the state gaming authorities are merely passive agents. Nor instrumental was any inexorable force of capitalism. Rather it was individual self-destructiveness which ef-

fecting the mob's ruin. "It would be the last time street guys were ever given anything that valuable again." (p. 348)

Nicholas Pileggi's view of Las Vegas is a highly negative and distasteful one. The book's subtitle is ironic since neither love nor honor is to be found in it. The individuals inhabiting *Casino* are, without exception, vicious people leading creepy, empty lives. "We are dealing with very greedy and very crooked people." (p. 44) Interestingly enough, once Las Vegas is purged of the mob, it doesn't much change. "Las Vegas has become an adult theme park, a place where parents can take their kids and have a little fun themselves. While the kids play cardboard pirate at the Teasure Island casino, or joust with knights at the Excalibur, Mommy and Daddy can drop the mortgage money and junior's college tuition on poker slots." (p. 347) The 1990s theme-park capitalism seems just as avarice-driven as was the old mob control, although its methods perhaps may be a bit daintier. Pileggi's vision remains essentially a sour one.

So how much of this is history? The names (unlike those in the movie) are those of actual people. The events did occur, and, by every indication, extensive research went into the writing of the book. In his acknowledgements, Pileggi extends his "appreciation and gratitude for the hundreds of people who helped me with this book," and he specifically thanks sixty-five individuals. *Casino* is constructed as a series of oral reminiscences. The reminiscences appear to have been repeated verbatim. At the centerpiece of the book is Frank Rosenthal's oral testimony, and to a great degree, *Casino* is Rosenthal's story—the one he would never have gotten around to writing except that Pileggi showed up with his tape recorder. Next in importance among Pileggi's many witnesses is Frank Cullotta, who had close ties to Spilotro. The book is largely oral histories of the mob.

Many more-traditionally-trained historians might find this methodology suspect. One can only contrast the work of the authors, both trained sociologists, of the recently published *The Black Book and the Mob, the Untold Story of the Control of Nevada's Casinos*, who eschewed interviews altogether. They note, with some pride, that their research was only from "official documents, public hearings, and media accounts," all of which are traditional historical sources and all of which are easily obtainable from the UNLV library.¹ But "official documents" and "public hearings" at least will be smoothly supportive of state regulatory efforts. Pileggi, by his use of oral testimony and his extensive research beyond the official records gives the wider, and almost certainly truer picture of the past. He probably overemphasizes the extent of Spilotro's influence, but the influence was certainly there. One does have to trust the author's probity in accepting his methodology, but this reviewer is inclined to do that. The book becomes a primary source in its own right.

Casino also gives the lie to the many exculpatory statements in the 1970s delivered by Nevada leaders that because of the state's stringent regulatory procedure, mob influence was nonexistent. According to this view, Las Vegas

fit into the normality of American culture and society. If that is true, Pileggi's already somber vision of Las Vegas creates a more nightmarish view of the greater society.

NOTES

¹Ronald A. Ferrell and Carole Case, *The Black Book and the Mob, The Untold Story of the Control of Nevada's Casinos* (Madison: The University of Wisconsin Press, 1995), xii.

Jerome E. Edwards
University of Nevada, Reno

Casino. By Universal Pictures, 1995.

Casino is a strong film, a substantive work which bears all of the exquisite visual hallmarks of its director, filmmaker Martin Scorsese, who, this time out, has created a contemporary frontier western with an intriguing noir component.

Writer Nicholas Pileggi began researching the real-life story which forms the basis for *Casino* almost immediately after wrapping the film *Goodfellas*, his first collaboration with Martin Scorsese. After five years of this research, Pileggi was about to settle into writing the book when Scorsese approached him with the idea of turning this work, immediately, into a screenplay. It was only after five months of intensive collaboration on the screenplay (with Scorsese taking half the screenwriting credit) that Pileggi finally went back to his original intention of writing the book.

This intense collaboration between two men whose individual working styles are so markedly different is one of the things which makes *Casino* so powerful a work. Pileggi, the writer, deals in literary narrative and exposition, the foundations upon which images are based. Scorsese, the filmmaker, creates tonalities, visualizes camera angles, composes elements within individual shots, constructs elemental sequences keyed in the dialogue, narrative and exposition—all of which—in the masterful hands of editor Thelma Schoonmaker Powell are brought together into one seamless whole.

Casino is set in the Las Vegas of 1973. Scorsese visualizes the city as a frontier town, a stage for billionaires, politicians, big-name celebrities and glamorous show girls; a haven for charlatans, slot cheats, card counters, chip hustlers and bottom dealers; a playground for bookies, loan sharks, drug dealers, pimps, torch artists and thugs; a Mecca to 30 million tourists and gamblers of all sizes, shapes, colors and dispositions, all of whom arrive with high hopes, most of whom leave with little or nothing.

In an interview, Pileggi told me, "*Casino* is about dreams, about money, about

gambling. It's about the really powerful elements in America—the Teamsters Union with its \$2 billion pension fund, politicians who need cash, politics which can be manipulated for cash, money and how it's moved, bankers who move it and the bosses who skim it. It's about the confluence of people, time and place where it can all happen."

Scorcese sees *Casino* as something more personal. For him, it's a moral fable, "a tale of *hubris*, where a man falls into the trap of believing that he's truly invincible." This kind of observation points up one of Scorcese's major strengths, his ability to distill a complex mechanism into a very simple thematic whole, keying everything to that whole, creating, in his head, the visual images which promote his theme.

Scorcese repertory company lead player Robert De Niro stars as Sam Rothstein, a sharp mid-western bookie who's brought in to helm the fictional Tangiers (Tropicana?) Hotel in Las Vegas. Sam plays things close, works 'round the clock, carefully balances the house odds, doesn't go for the long shots, runs a conservative operation keeping a low profile (a definite plus where the locals are concerned) while managing to skim enough off the top to keep the mob interests happy. It's a role tailored for De Niro's particular talents. Even at parade rest, De Niro's sub-surface volatility drives this character, eventually slamming him into a wall.

That wall is longtime friend Nicky Santoro, Joe Pesci, an explosive, irrational, violent thug who'll bring Sam down. Pesci plays Nicky as an extension of the character he played in *Goodfellas* and there are times when he pushes way too far over the edge, losing his audience in the process. Pesci has never really learned control; never learned that "less is more" in the way that De Niro has, and while the juxtapositioning of the two does create a dynamic tension, the balance between them is a delicate one which needs more control than Scorcese seems able to provide.

Ginger McKenna is the fatal chink in Sam's armor and Scorcese has drawn what looks like a phenomenal performance out of Sharon Stone as the beautiful, blonde gold-digger. Recognizing her acting limitations, he treats her the way Von Sternberg treated Dietrich: wrapping her in furs, spraying her with jewels, caressing her with exquisitely-set light and shadows, restricting her movements and dialogue, moving both camera and action around her while keeping her central in the frame, constructing her character with light, movement and rhythm rather than dialogue, the way a film should build its characters. The device works phenomenally well and will definitely fool audiences, though perhaps not the industry, into thinking that Stone herself is responsible for the performance.

The three characters triangulate into a sharp dynamic generating its own energy which Scorcese uses to build the tension necessary to sustain the story. He then embroiders the film with outstanding supporting performances by Don Rickles as a slick floor boss, Dick Smothers as a bought and paid for politician, and Scorcese's own mother, Catherine, as a mob mother; texturing it with his

unique approach in which images are almost painted rather than merely recorded.

But, in the final analysis, though it is a rich visual experience dealing with a part of America's cultural landscape, and despite its undeniable visual and literary quality, *Casino* is a cold, unfeeling, grotesquely violent movie, populated with characters who remain at arm's length, never allowing the audience to get close, to care, to become involved; all of which should substantially cut its commercial potential.

Howard Rosenberg
University of Nevada, Reno

The Refiner's Fire: The Making of Mormon Cosmology, 1644–1844. By John L. Brooke.
(Cambridge: Cambridge University Press, 1994.)

Studies of Mormon history have sometimes followed functionalist arguments geared to linking the rise of Mormonism to frontier experiences and to social pressures encountered in the young republic. In this book, John L. Brooke advances a less Turnerian point of view, finding the roots of Mormon theology in themes of religious primitivism and restoration, motifs which, he believes, connect colonial sectarian groups to Europe's Radical Reformation. The thesis, then, is one that underscores cultural continuity with Old World traditions. One of those traditions, current among religious radicals, was, Brooke claims, an occult philosophy based upon the assumption of the coequality of matter and spirit described as Renaissance hermeticism.

According to the view adopted by Brooke, a "hermetic tradition" began with the rediscovery, in the mid-fifteenth century, of texts (the *Corpus Hermeticum*) considered to be the magical revelations of an ancient figure named Hermes Trismegistus. Hermes was thought to have been older than Moses, but by the early seventeenth century scholarly criticism had determined that the texts making up the *Corpus Hermeticum* actually originated in the early Christian era. Nevertheless, many in the Early Modern period continued to credit the *Hermetica* as revealing a divine truth about the organization of nature, namely that the coming-into-being of the physical universe was not a creation *ex nihilo* (from nothing) but *ex deo* (from God). Matter, in this sense, was by no means inert but possessed of living, spiritual forces that might, if correctly understood, be manipulated for the purposes of perfecting the human body through specially prepared medicines, or with the aim of perfecting imperfect metals in the alchemical pursuit of generating gold and silver.

There was something godlike in the activities of the Renaissance *magus*, and

Brooke notes that through hermeticism the individual could regain the divine powers of Adam that were lost in the fall from Paradise. In much the same fashion, he argues, Joseph Smith would promise the Mormon faithful that they could become gods once ancient mysteries had been restored. In Mormonism the ultimate goal of godhood joins other elements assumed to be in some sense hermetic, including temple rituals and the notion of three ascending kingdoms replacing the duality of heaven and hell. These things, Brooke argues, arose not as a result of invention, but through transmission; and following the lines of that transmission is one of the primary purposes of the narrative.

In a nutshell, Brooke sees the extreme perfectionism of the radical religious groups that formed during the Reformation as fusing Christianity with "the ancient occult hermetic philosophy." Thus, "hermetic perfectionism, Adamic restoration, and popular magic" arrived in the New World, not with Puritan migration, but with the sectarian survivors of Europe's Radical Reformation. Within this context, Brooke argues, Mormon cosmology took root. The person who planted the seed was, of course, Joseph Smith.

In the mid-1820s Smith gained reknown for his powers of divining by means of a seer-stone. With the stone, discovered in the well of Willard Chase, he located lost and stolen goods and advised groups of "money-diggers" on the location of buried treasure. For Brooke, occult divination and a fascination with precious metals are the links joining Smith with medieval alchemy and Renaissance hermeticism. The route back to the Renaissance is circuitous but proceeds by means of reference to Masonic millenarianism, kinship memory, the experiences with conning men in the wilderness, the Smith family's earlier involvement with occult and spiritual beliefs in the Salem witchcraft trials, and the family's participation in projects relating to mining and metallurgy. In the context of digging for gold Smith received one of his most important visions—a spirit informing him of the sacred plates buried in the hill Cumorah. The plates, written in a language that Smith identified as "reformed Egyptian," became, when translated, *The Book of Mormon*.

This is a fascinating and innovative discussion which contributes to American religious history by focusing less upon social and environmental factors than upon the content and possible derivation of Mormon theology itself. Ideas associated with Renaissance occult philosophies may indeed have also been part of Smith's spiritual and cultural world. The question remains, however, whether there is any concrete evidence to suggest a connection between the two. In terms of kinship memory, one wants to know more exactly what was being remembered. Was it the philosophies of Paracelsus, Hermes, and Agrippa, or something more vague in which spiritual forces and magical relationships followed from a folk culture predating even the Renaissance itself? Or could there have been present in Smith's cosmology elements of both traditions, or others? Brooke's narrative is extremely seductive, partly because being so precise about some things (e.g., family relationships and kinship ties) one expects it to

be just as precise about its major claims. But here the ground is far less firm, especially in regard to references to the Renaissance occult tradition called hermeticism.

The words hermetic or hermeticism occur repeatedly in the narrative, so often in fact that one might get the impression that such a tradition has a definite intellectual contour. In fact the very existence of a hermetic tradition is problematic. The notion rose to prominence in the 1960s with Frances Yates's discussion of the intellectual world of the Renaissance philosopher Giordano Bruno. Since then, however, some commentators have wondered about its historical reliability. Brooke gives the terms hermeticism, the hermetic tradition, and the hermetic system meanings having to do with natural vitalism, alchemy, and practical knowledge about mining, and connects the terms as well to the ideas of several late-Renaissance occult figures. And yet, so murky and turgid are the waters surrounding the discussion of hermeticism that recent scholarship has begun to ask whether use of the term might not be culturally evasive. Perhaps alchemical images did attract Joseph Smith. But does this mean that he was also attracted to an entire occult philosophical system? In the end, it is the combination of loose terminology with the amorphous notion of kinship memory, that makes any literal connection between Smith and Renaissance hermeticism seem, at least to this reviewer, tenuous at best. On the other hand, reading Brooke as arguing for the influence of some sort of occult residue linked to English writers and translators of the seventeenth century and mediated through religious expression in the New World, has its attractions.

One other point needs attention. This is Brooke's claim that the occult philosophy he terms hermetic was associated with radical religious groups and was not at all compatible with Calvinist ideology. While a number of dissenting religious writers did in fact find allies in the works of Paracelsus and other occult authors, Calvinist princes, especially in northern Europe, were among the most pronounced patrons of alchemy, Cabala, Paracelsianism, and other forms of magic and occult philosophy in the early seventeenth century. One of the best known German Paracelsians, Oswald Croll, was, from all appearances, a devout Calvinist. Beyond strict Calvinism, but well within the boundaries of official Protestantism, were the writings of the Anglican cleric Thomas Thymme, who combined in his own studies various aspects of prophecy, alchemy, natural philosophy, and theology, while commenting also on the "Cabalistical Art." Here again, lines connecting occult interests to the experiences of the Reformation in Europe may need to be redrawn. For all the uncertainty, however, *The Refiner's Fire* adds dimension to the discussion of Mormon origins and may, after all, be prescient in its insights. Determining that, however, must await the refinement that comes through the fire of more intense historical criticism.

Bruce T. Moran
University of Nevada, Reno

Peddlers and Post Traders: The Army Sutler on the Frontier. By Michael Delo. (Salt Lake City: University of Utah Press, 1992, 274 pp., illustrations, maps, notes, bibliography, index.)

The American army's sutler system has received attention in several published works. Mostly, however, they have been articles limited to particular sutlers or posts. Michael Delo now gives us a fuller treatment of the sutlers from colonial times until their passing from the scene at the end of the nineteenth century. It is a worthwhile contribution to American military history, especially for the period in which the army was largely a frontier institution.

Delo examines the evolution of the sutler's status from his position as a camp follower prior to 1821 to a more officially recognized role from 1821 to the Civil War, and to his status as post trader in the later nineteenth century. Generally looked upon as a necessary evil, the sutler/post trader supplied enlisted men and officers with items that made life more bearable, such as liquor, pies, canned goods, cheese, crackers, and fruit.

The author does a good job of tracing the congressional legislation and army regulations that continually altered the privileges and boundaries of sutling. Nevada readers will note that Senator James W. Nye opposed the passage of the act of 1870, which gave the secretary of war authority to appoint post traders. Nye saw, correctly, that this would foster monopoly and corruption.

Another strong point is the exploration of the attitudes of soldiers toward the men who supplied their wants. The views varied widely over time and space and from one sutler to another. To some, the sutler was an unscrupulous, greedy exploiter. To others he was an honest, responsible businessman providing desirable items at reasonable prices. Other themes explored here are the involvement in politics (particularly political favoritism in the form of monopoly privileges) and the banking and postal services provided by the sutlers.

The sutlers/post traders disappeared at the end of the nineteenth century, and were replaced by army-run canteens that evolved into the post exchange (PX) system. Because of the growth of western towns and the rise of local merchants they were no longer necessary. Few mourned their passing.

The work has weaknesses. The story of the sutlers during the Mexican War is largely confined to the landing at Vera Cruz. Readers will want to know more about how the sutlers acquired their goods. Both the index and map are unsatisfactory, there being no consistent criteria for inclusion in either. Contemporary vernacularisms appear too frequently, and first names of persons appear too seldom.

The publishers should have provided a more thorough editing to prevent the inclusion of statements such as "O'Fallon's cargo could not have chosen a worse time to go floating downriver." (p. 41) Other slips should have been caught by outside readers of the manuscript. For example, the author confuses companies with regiments. One officer is identified as "captain of the Second U.S. Rifle

Regiment" (p. 36), and there is mention of "a rifle regiment of the Sixth Infantry." (p. 38) There was no "Department of Indian Affairs" (p. 79), nor a "newly created" Bureau of Indian Affairs (p. 65) in 1832.

The author makes errors most often when dealing with matters not directly related to sutling. For example, he writes of "Charlemagne, during the Carthaginian war of the ninth century. . . ." (p. 2) The frontier was not closed in 1890 "by an act of Congress" based upon a "Bureau of the Census ruling." (pp. 205, 244, n. 34)

The merits of *Peddlers and Post Traders*, however, outweigh the defects. While not intended to be the last word on the subject, it goes a long way in helping us to understand it.

Michael J. Brodhead
National Archives—Central Plains Region

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