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# Fake Tales of San Francisco: History, Legacy and the San Francisco Vigilance Committee of 1851

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Fake Tales of San Francisco: History, Legacy and the San Francisco Vigilance Committee of  
1851

by

Joseph Fraser Hubbard

A THESIS

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## **Abstract**

In the run-up to the American Civil War, vigilantism became a common phenomenon in the new West, with ad hoc mining tribunals giving way to permanent committees intent on policing the rapidly urbanising cities of the California gold fields. The earliest example of this organised, violent activism in the region came in the form of San Francisco's Vigilance Committee, which operated during the summer of 1851. This study argues that this iteration of the Vigilance Committee, despite being an important milestone in Western antebellum vigilantism, has been misrepresented and mischaracterised by its earliest documenters. A preoccupation with legacy, and chiefly an attempt to establish a sympathetic, celebratory one, resulted in the Committee's story being reconstructed for that purpose. The first two chapters of this thesis outline and explore realities of two core arguments of that reconstruction: first, the reality of the supposed crime wave that justified the Committee's formation; second, that the Committee was efficient, effective, and uncorrupted. This feeds into a third chapter that argues the Committee's historical value *in spite* of its superfluous formation and questionable utility. By positioning the vigilantes' story within a nascent antebellum trend of vigilantism as activism in the West, this study holds that the Committee's curious story never needed embellishment or justification to be an important turning point in San Franciscan, Californian, and pre-Civil War history.

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Mostly, though, this thesis is dedicated to my wonderful parents, Katherine and Mark. Their teaching of the value of education at every level, combined with their support at each step along the way, has been invaluable. The best bits of this thesis can be credited to their love over the past two years, and the twenty-one or so that came before.

UTO.

For John Alan Fraser, whose seafaring spirit I try to honour every day.

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## Introduction

On October 1, 1850, a man left his lodging on Clay St, nestled in the fledgling city of San Francisco. He did not plan on leaving for an especially long time: fifteen minutes was all he needed to fetch a bucket of water from the yard. However, on his return he found his trunk open, and \$1,600 worth of gold dust absent. The following day, the *Daily Alta California*, or the *Alta* to locals, printed the man's story, speaking of the "devilish thieves and villains" that infested the city. The editors were unequivocal in their suggestion of what was to be done: "their depredations can only be checked by the prompt sentence of Judge Lynch. Police and courts seem to be but little dreaded if at all."<sup>1</sup> In less than twelve months, San Francisco's citizenry did indeed take matters into their own hands. By June of 1851, a group calling themselves the Committee of Vigilance drew up a constitution vowing that "no thief, burglar, [or] incendiary assassin shall escape punishment," and would spend the rest of 1851 trying to keep that promise.<sup>2</sup>

Vigilantism across the antebellum United States is a well-documented phenomenon, and San Francisco was by no means the first or last city to experience it. Among the more recent contributors to the topic, Philip Ethington positioned the 1851 Committee – and its successor, the bloodier 1856 incarnation – within "a long American tradition of organized extralegal law enforcement," tracing the beginnings back almost a century to the South Carolina Regulators of the late 1760s.<sup>3</sup> Ethington estimated at least 326 such movements in

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<sup>1</sup> "Robbery," *Daily Alta California*, October 2 1850. Note: all *Alta* sources, as well as most Californian newspaper sources used here, were obtained via the California Digital Newspaper Collection (CDNC), available online through the University of California Riverside. It is highly searchable by publication, date, article or keyword. The URL and other general citation information is listed in the bibliography.

<sup>2</sup> Mary Floyd Williams, ed., *Papers of the San Francisco Committee of Vigilance of 1851: Minutes and Miscellaneous Papers, Financial Accounts and Vouchers* (Berkeley, CA: University of California Press, 1919), 1.

<sup>3</sup> Philip J. Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (1994, reprint; Berkeley, CA: University of California Press, 2001), 88.

American history, Richard Maxwell Brown over 500.<sup>4</sup> However, the use of the term is broad. Lynch law was a frequently prescribed solution to a myriad of political, social and cultural problems in cities across the republic. Few were as simple as solving a crime problem, however many of their constitutions and declarations suggested otherwise. The complaint of the *Alta* that the police and courts were weak echoed justifications for vigilantism in Mississippi in 1835 and St. Louis in 1836 where, according to Michael Pfeifer, “the inadequacy of laws and ineffectiveness of legal institutions in thwarting dangerous criminality justified vigilante violence.”<sup>5</sup> In fact, local issues including attitudes to gambling or fear of a slave insurrection seemed to be the motivation, something a young lawyer by the name of Abraham Lincoln lamented in an address to the Young Men’s Lyceum of Springfield, Illinois in 1838. “Lawless mobs that substituted their judgements for those of legally constituted courts had become a national problem ‘from New England to Louisiana.’”<sup>6</sup> Pfeifer saw these vigilante movements’ roots as being tied to the general trend of reform in criminal justice, particularly with regard to both the rights of the defendant and “the notion of a fair-handed, omnipotent state as arbitrator of community differences and guarantor of individual rights.”<sup>7</sup> Vigilantes preferred local knowledge and “local opinion over... due process law and the rights of the defendant.”<sup>8</sup> Likewise, David Johnson referred to this “natural justice” as a reaction against the “explicit neutrality of procedural criminal justice.”<sup>9</sup>

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<sup>4</sup> Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York, NY: Oxford University Press, 1975), 96.

<sup>5</sup> Michael J. Pfeifer, *The Roots of Rough Justice: Origins of American Lynching* (Urbana, IL: University of Illinois Press, 2017), 12.

<sup>6</sup> Pfeifer, *The Roots of Rough Justice*, 12.

<sup>7</sup> Pfeifer, *The Roots of Rough Justice*, 13, 15.

<sup>8</sup> Pfeifer, *The Roots of Rough Justice*, 15.

<sup>9</sup> David A. Johnson, “Vigilance and the Law: The Moral Authority of Popular Justice in the Far West,” *American Quarterly* 33, no. 5 (Winter, 1981): 564.

Even if the publicly stated thrust of vigilante action was to combat criminality and root out rogues, each instance across the United States was underscored by distinct regional issues to varying degrees. Some seemingly showed a genuine intent to clean up the town or city in question. For example, in 1857, a vigilante movement spanning five counties in Iowa executed fifteen white men for crimes of murder, horse theft, and counterfeiting.<sup>10</sup> Similarly, scholars have observed where these vigilante movements sprang up in absence of adequate apparatus to police and punish: Mark Dillon found that vigilantism in Montana was borne of “the absence of effective territorial or federal law enforcement,” laid bare by the “unpunished public murder of Chief Deputy D.H. Dillingham.”<sup>11</sup> In other cases, crime and its unsatisfactory punishment were merely an excuse for other motivations, and vigilantism was an oft prescribed solution for escalating tensions surrounding race, slavery and abolitionism, especially in the South. As Brent Campney noted, Reconstruction-era Kansas was beset by organised, racially-motivated violence with a view to “subordinating the black population.”<sup>12</sup> Likewise, vigilante organisations across Texas in the summer of 1860 executed as many as one hundred black and white men, mostly prompted by an ongoing paranoia regarding a slave rebellion.<sup>13</sup> Others were perhaps subtler: Leonard Richards explained that some vigilante organisations in the 1830s spent their days “patrolling Negro quarters, questioning strangers, and to search post offices, ships and stages for antislavery literature,” adding that Southern committees offered rewards for the capture of leading abolitionists.<sup>14</sup>

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<sup>10</sup> Pfeifer, *The Roots of Rough Justice*, 21.

<sup>11</sup> Mark Dillon, *The Montana Vigilantes: Gold Gallows, and Guns, 1863-1870* (Logan, UT: Utah State University Press, 2013), 36.

<sup>12</sup> Brent M.S. Campney, “‘Light is Bursting upon the World!’: White Supremacy and Racist Violence against Blacks in Reconstruction Kansas” in *Lynching Beyond Dixie: American Mob Violence Outside the South*, edited by Michael J. Pfeifer (Urbana, IL: University of Illinois Press, 2013), 85.

<sup>13</sup> William D. Carrigan, *The Making of a Lynching Culture: Violence and Vigilantism in Central Texas 1836-1916* (Urbana, IL: University of Illinois Press, 2004), 48.

<sup>14</sup> Leonard L. Richards, *Gentlemen of Property and Standing: Anti-Abolition Mobs in Jacksonian America* (New York, NY: Oxford University Press, 1970), 16-17.

Local differences between vigilante movements also extended to the perpetrators' relationship with law enforcement and criminal justice systems. 'Slickers' on the cotton frontier "sometimes used the legal process to bring formal charges against the men they flogged literally outside the courthouse door," according to Pfiefer.<sup>15</sup> On the other hand, San Francisco's Vigilance Committee of 1856 antagonised both the federal government and state courts by seizing an arms shipment and imprisoning a chief justice.<sup>16</sup> Conversely, in Sonora, California, though the crowd opposed their sheriff's attempt to carry out the letter of the law with regard to the case of a robber rather than permit his lynching, they did not harm his person: "rather, [they] denied his authority to control the accused."<sup>17</sup> Some, including the 1851 Committee in San Francisco, existed in the grey area in-between: they were acting illegally, but the perceived inadequacies of legitimate local justice – something that inspired many organisations to form in the first place – meant they did not necessarily fear strong reprimand. Still, despite differences in aims and relationships with existing legal structures, Ashraf Rushdy explained that lynching and vigilante violence almost always employed "the language of democratic revolution in order to claim sanction for extralegal actions."<sup>18</sup> San Francisco in 1851 would be no exception: the context differed from Mississippi or St. Louis, but the spectre of popular sovereignty and consent remained.

In Arellano's words, "vigilantes understood their own practices as principally related to the local conditions in which they organised, rather than as subsidiary to the larger, transregional practice of vigilantism."<sup>19</sup> True enough, San Francisco's first foray into the realm of organized frontier justice was just as informed by distinct local issues and quirks as

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<sup>15</sup> Pfiefer, *The Roots of Rough Justice*, 17.

<sup>16</sup> Ethington, *The Public City*, 89.

<sup>17</sup> Johnson, "Vigilance and the Law," 567.

<sup>18</sup> Ashraf H.A. Rushdy, *The End of American Lynching* (New Brunswick, NJ: Rutgers University Press, 2012), 4.

<sup>19</sup> Lisa Arellano, *Vigilantes and Lynch Mobs: Narratives of Community and Nation* (Philadelphia, PA: Temple University Press, 2012), 88.

any other. Even before the Gold Rush that began in 1848 with the striking of gold at Sutter's Mill, and the thousands of hopeful prospectors that came with it, California was undergoing extensive change after its occupation in 1846 and annexation two years later by the United States during the Mexican-American War. Under the city's first few years under American stewardship, San Franciscans – and Californians more generally – were subject to little in the way of federal or local sovereign oversight as the city transitioned from Mexican to American structures of municipal government between 1848 and 1851. For Richard Bense, the American state had not yet emerged. It would in fact take the bloodiest war ever fought on their soil, the Civil War that broke out in 1861, to establish more than just the “token administrative presence” that existed in most of the nation.<sup>20</sup> Though the first chapter will enumerate the particulars and consequences of the weak state in the region, the central authority that emerged as late as 1850 for the city of San Francisco can be simply characterised as similar to those found in more modern international crises.

Michael Hechter and Nika Kabiri observed a few factors that can lead to state breakdown – or the failure of said state to properly establish itself in the first place – after an invasion or annexation, using American involvement in Iraq as a case study. First, a lack of a coherent plan for administering peace once a conflict ends; second, a lack of resources to police newly acquired territories; third, a misconception of a given territory's “specific characteristics and circumstances” in informing the choice, application and effects of varying structures of governance.<sup>21</sup> The continuity in the federal, state and local government prevented San Francisco from succumbing to outright state failure, but some aspects of Hechter and Kabiri's conception of governmental breakdown are consistent with the situation

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<sup>20</sup> Richard Bense, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (Cambridge, UK: Cambridge University Press, 1991), ix.

<sup>21</sup> Michael Hechter and Nika Kabiri, “Attaining social order in Iraq” in *Order Conflict and Violence*, edited by Stathis N. Kalyvas, Ian Shapiro and Massoud Tarek (Cambridge, UK: Cambridge University Press, 2008), 44.

in 1850 and 1851. Per the terms of the Treaty of Guadalupe Hidalgo signed in 1848, the territory of California came under American control – and this raised countless questions regarding the organisation and governance of this newly acquired land. For example, when the Union took its spoils of the Mexican-American War, it had both competing and ill-formed ideas for its latest territorial acquisition – not to mention growing, and perhaps more important, political cleavages regarding slavery. Accordingly, the territory spent four years under military rule, wherein Americans took over positions within the old Mexican governmental structures. Eventually, a drawn-out process of establishing statehood in July 1850 sparked a flurry of new statutes ratified at the legislature in San Jose, where a semblance of a democratically-elected authority could finally begin to take shape. When the new municipal authority finally arrived in San Francisco in 1850, it inherited both the city’s spiralling debt and its desperate need for public infrastructure. Last, the strangers that won election to the city’s new administrative and judicial bodies did not seem to understand the circumstances that San Franciscans had lived during the previous three years or so – that is, administering its own justice and local government with or without the consent of California’s military government. One might argue that this represented what Arjun Chowdhury theorized as the contract of “exchange between a central authority and the population” breaking down (or perhaps never having been performed in the first place).<sup>22</sup> If the state’s end of this bargain would be to “provide services – protection from external and internal threats, and public goods like infrastructure,” the public, or vocal sections of it, were obviously dissatisfied with their efforts.

Having established that parts of San Francisco’s new local authority were struggling in the early 1850s, it is important to also establish the landscape of secondary literature on the

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<sup>22</sup> Arjun Chowdhury, *The Myth of International Order: Why Weak States Persist and Alternatives to the State Fade Away* (New York, NY: Oxford University Press, 2017), 15.

Vigilance Committee that organised as a reaction to that struggling state – and to capitalise on public distrust of it – before addressing either topic in detail. Though a great deal of scholarship has focused on both Gold Rush-era San Francisco and vigilantism in the mid-19<sup>th</sup> century, the 1851 Committee is generally characterised as a mere precursor to the 1856 Committee, something Mary Ryan dubbed San Francisco’s “most explosive” brush with vigilante violence.<sup>23</sup> Academics have by no means ignored the first Committee’s actions, but very few have concentrated on it exclusively. In his own treatment of the 1856 vigilantes, Waldrep explained simply that, true enough, “[San Francisco] had done this before, in 1851, but the 1856 committee lasted longer and grabbed more attention from newspapers across the nation than the earlier episode.”<sup>24</sup> Accordingly, the last focused and comprehensive treatment of the Committee of Vigilance of 1851 alone was written almost a century ago by Mary Floyd Williams, coinciding with the collection, collation and publishing of the Committee’s papers. Ethington noted that, besides Williams’ work and Hubert Howe Bancroft’s *Popular Tribunals* (one volume of which heavily features the Committee, though falls awkwardly somewhere between a contemporary account and a secondary history), “all subsequent histories have... added only selectively to the store of empirical knowledge about those episodes.”<sup>25</sup> Following Bancroft’s publication of “two massive volumes on vigilantism”, Williams completed both the *Papers* and *History* of the Committee, publishing the former in 1919 and her history of the Committee two years later.<sup>26</sup> Her influence on the history of this vigilante organization goes beyond the authorship of perhaps *the* cornerstone text on the subject: the archived papers of the Committee, available at the Bancroft Library in California, are those she collected, and in the chronological order she sorted them into. Indeed, her

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<sup>23</sup> Mary P. Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley, CA: University of California Press, 1997), 137.

<sup>24</sup> Christopher Waldrep, “The Popular Sources of Political Authority in 1856 San Francisco: Lynching, Vigilance and the Difference between Politics and Constitutionalism” in *Lynching Beyond Dixie*, ed. Pfeifer, 85.

<sup>25</sup> Ethington, *The Public City*, 90.

<sup>26</sup> Arellano, *Vigilantes and Lynch Mobs*, 17.

published collection of the papers accompanies the originals at the archive. Few can stake a claim to having such authority over a historical event, evidenced by historians' unfailing consultation with her work when the Committee has appeared in their own research. Given the influence and ubiquity of Bancroft and Williams' work on the vigilantes of 1851 in modern scholarship – something this thesis will visit and revisit throughout – it is crucial that their formative studies approached the topic with even-handedness in establishing the facts of the event, and assessing this will be the study's overarching focus. It seems prudent, then, to spend some time summarising and critically engaging with these two scholars' work on the vigilantes, especially Williams' contribution.

Before Williams' *History* and accompanying *Papers* established themselves as a two-pronged comprehensive commentary on the Committee's formation, operation and dissolution, Bancroft's first volume of *Popular Tribunals* was the premier option for anyone interested in the vigilantes' story, including Williams herself. Hubert Howe Bancroft cut something of a larger-than-life figure: as well as an extensive publishing output credited to his name, his legendary personal collection of more than 60,000 books formed the basis of the University of California, Berkeley library named in his honour.<sup>27</sup> For *Popular Tribunals*, Bancroft found himself dissatisfied with being 'outside' of the story, predominantly using newspaper accounts to piece together the vigilantes' story. Eventually, though, the Committee membership felt comfortable enough to break their code of silence and regale the specifics of their operation. Though some early scholars and laymen had written about and documented the Committee's story, Bancroft's was the first to retell it after interviews with

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<sup>27</sup> It should be noted that, as early as 1893, the true extent of Bancroft's published output has been doubted. In 1903, William Alfred Morris claimed that much of the work credited to him was usually researched and occasionally even written by others. This applied mostly to that which was published as part of his large *Pacific States* project. See William Alfred Morris, "The Origin and Authorship of the Bancroft Pacific States Publications: A History of a History (Part 1)," *Oregon History Quarterly*, 4 (1903).

Committee members and access to their then-closely guarded internal papers.<sup>28</sup> Perhaps understandably, the rich vein of new information that former vigilantes had clung onto for several decades dominates the narrative, focusing on the Committee's achievements while ignoring its missteps and quickly disposing of its contemporary critics. Bancroft exudes enthusiasm for the vigilantes' intentions while also characterising San Francisco as being a city in dire need of the Committee's swift justice. In places, it reads not unlike the kind of "myth of the American pioneer culture" William Culbertson found reinforced in popular media: when "proper societal institutions... are ineffectual, [the individual] takes matters into his own hands, solves the problem, and re-enters the larger society as a hero."<sup>29</sup> Most of that characterisation is based on Bancroft's assurances that the rate of crime was abnormally high, that the courts were "a shield, a protector from popular fury" for criminals, and the fact that the vigilantes would not have risked prosecution or death if the situation was not so gravely serious.<sup>30</sup>

Additionally, as Waldrep noted, Bancroft also parroted the logic of Francis L. Grund on the legitimacy of lynching as a practice more generally. Where the latter in *The Americans and their Moral, Social and Political Relations* traced the practice of lynching back to the American Revolution where it was reinvented as a "patriotic cause;" the former highlighted how "clandestine proceedings" in old feudal regimes justified the practice by the sheer age and prevalence of the exercise of arbitrary judicial power in the United States and Europe. "Grund and Bancroft," wrote Waldrep, "both hoped their readers would conclude that such deep origins in human history legitimated the collective violent expression of popular

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<sup>28</sup> As well as early memoirs such as preacher William Taylor's, scholars including Henry Gray, Frank Meriweather Smith and Josiah Royce all wrote sections and books about San Francisco's first taste of vigilantism that all preceded Bancroft's publication, which all feature in this study in some capacity. None of those authors, however, were able to procure the vigilantes' papers in researching their work.

<sup>29</sup> William C. Culbertson, *Vigilantism: Political History of Private Power in America* (New York, NY: Pager, 1990), 9.

<sup>30</sup> Hubert Howe Bancroft, *The Works of Hubert Howe Bancroft, Volume XXXVI: Popular Tribunals, Vol. I* (San Francisco, CA: The History Company Publishers, 1887), 203, 215, 316.

sovereignty.”<sup>31</sup> For the vigilantes of San Francisco specifically, this is exemplified in Bancroft’s relation of the Committee’s work to German knights in the Middle Ages, or the French Revolution, but also how that ‘right’ to vigilante action is always accompanied by “acknowledging the obligation to act,” much like the kind of popular media hero Culbertson explored – being blessed with the power to act, but also the responsibility to so in a way that adheres to an objective moral good.<sup>32</sup> Central to this idea was Bancroft’s assertion that “something must be done” about San Francisco’s problem with violent criminality, and that the vigilantes that answered that call did so with “no ambition to figure in history.”<sup>33</sup> The vigilantes – at least, their most prominent members – were a far cry from the masked, morally uncorrupted figures one might find in comic books, but the notion that they were acting in the city’s objective interest rather than their own is central to the internal logic of Bancroft’s assessment of their work. Bancroft took cues from the likes of James Carson, a juryman in San Francisco during the events who featured briefly in Bancroft’s retelling.<sup>34</sup> Carson’s personal recollection emphasised the vigilantes’ “firm devotation [sic] to the cause of right [which] alone saved California from becoming the theater of strife and blood-shed unknown before in the history of the world.”<sup>35</sup> Carson’s enthusiastic praise for the Committee’s position of moral strength is mirrored by Bancroft’s interpretation, where he also privileges the Committee’s intentions and public discourse over the actual successes and failures of the various investigations and cases it undertook. In short, Bancroft’s lengthy tomes were the first to firmly position what Arellano called “narratives of heroic vigilantism... as historical truth,” and his extensive treatment of the 1851 vigilantes was critical to that.<sup>36</sup> However, it

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<sup>31</sup> Christopher Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America* (New York, NY: Palgrave MacMillan, 2002), 13-14.

<sup>32</sup> Bancroft, *Popular Tribunals I*, 2-5, 8-9.

<sup>33</sup> Bancroft, *Popular Tribunals I*, 205, 215.

<sup>34</sup> Bancroft, *Popular Tribunals I*, 203.

<sup>35</sup> James H. Carson, *Early Recollections of the Mines and a Description of the Great Tulare Valley* (1852, Reprint, Tarrytown, NY: W. Abbatt, 1931), 26.

<sup>36</sup> Arellano, *Vigilantes and Lynch Mobs*, 88.

would be Williams' account that would fortify those narratives with a slightly broader source base and a more modern, dispassionate delivery of them.

Mary Floyd Williams was the daughter of Edwards Williams, a first lieutenant in the army, chiefly during the U.S.-Mexico War.<sup>37</sup> As well as her familial ties to the era, Williams could boast illustrious company when it came to her academic descendance. Williams' mentor at the University of California, Berkeley was Herbert Bolton, author of the influential 'Bolton Theory,' which held that American history could not be studied in isolation from other nations' histories. Bolton himself was a former student of Frederick Jackson Turner, whose influential essay "The Significance of the Frontier in American History" debuted at the World's Columbian Exposition in Chicago in 1893.<sup>38</sup> Williams received her PhD in 1919, submitting a thesis which would form the basis of her published work on the same vigilante topic just two years later. Published in 1921, *History of the San Francisco Committee of Vigilance of 1851: A Study of Social Control on the California Frontier in the Days of the Gold Rush* presented a straightforward, chronological narrative dealing with the origins, course, and decline of San Francisco's first organised vigilante group. The first part concerns the circumstances in San Francisco and the immediate surroundings that led up to the Committee's establishment. Of particular note here is Williams' attention to the integral role of the public in establishing early law and order. Despite being "fully pacified" after the Mexican-American War, California still lacked many basic bureaucratic structures taken for granted elsewhere.<sup>39</sup> The territory remained under the military government of Colonel Richard Barnes Mason for some time. It was the citizens who picked up the slack in terms of organizing elections for councils and constables, "a characteristic California precedent," one

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<sup>37</sup> Louise Pubols, "Changing Interpretations of California's Mexican Past," *California History*, 91, no. 1 (Spring 2014): 16.

<sup>38</sup> Pubols, "Changing Interpretations," 16.

<sup>39</sup> Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851: A Study of Social Control on the California Frontier in the Days of the Gold Rush* (Berkeley, CA: University of California Press, 1921), 40.

that “the governor did not consider... insubordinate.”<sup>40</sup> Williams emphasised the participatory nature of local politics of the time, and perhaps also the informality of it. Williams’ point in this part, as well as to explain the background of the region, was to show that the advent of the Committee in 1851 as an unsanctioned, vigilante movement was not especially surprising given the political culture of California at the time. Seemingly insignificant, or at least benign, moments like this “displayed the fundamental characteristic of California existence in 1848 and 1849: swift agreement by the will of the majority on matters of common interest, and cheerful loyalty to such decisions until they might be changed by another popular verdict.”<sup>41</sup> Obviously, at least for Williams, this same devotion to direct democracy would legitimise both the existence of the Committee and, eventually, its steady decline.

Williams also related events that more immediately preceded the rise of the 1851 Committee, again tracing the same distinctly Californian commitment to the will of the majority and participatory politics she perceived. The trial of the Hounds, “a company of desperadoes who terrorized the city in the summer of 1849,” highlighted the role of “mass meetings and popular tribunals... as legitimate means of social discipline.”<sup>42</sup> With this trend established, Williams also noted that at least eleven citizens prominent in the conviction of the Hounds went on to become central members of the Committee: Samuel Brannan, the President of the General Committee and Isaac Bluxome, Jr., the perennial secretary of both of San Francisco’s vigilance committees, were among their number.<sup>43</sup> The story of the Hounds trial seems to demonstrate that, by 1849, San Franciscans were preoccupied with justice being done. This preoccupation informs what becomes Williams’ largely sympathetic

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<sup>40</sup> Williams, *History of the San Francisco Committee*, 49.

<sup>41</sup> Williams, *History of the San Francisco Committee*, 65.

<sup>42</sup> Williams, *History of the San Francisco Committee*, 105-108.

<sup>43</sup> Williams, *History of the San Francisco Committee*, 108.

retelling of the Committee's rise. If men like Brannan and Bluxome were prepared to operate firmly within the bounds of the law, their decision to advocate for (and eventually, dole out) extralegal justice must only have been made because it was absolutely necessary. By the time Williams began discussing the actual formation and course of the Committee's relatively brief effective existence, the picture is one not of radical vigilante action, but a rational, logical development in a distinctly Californian state of affairs. It is on this repeated assertion where her retelling begins to show its age.

In setting the scene for the Committee's mid-1851 ascendance, Williams gave credence to the groups' claims in their constitution that San Francisco was beset by "a carelessness or corruption of the police [and] a laxity of those who pretend to administer justice."<sup>44</sup> Before the Committee first began officially meeting, San Francisco was incorporated as a city in 1850. Improvised, unauthorised and interim councils and *alcaldes* were pushed out as citizens approved a city charter and elected their first officials in May 1850, and with them their "obnoxious salaries."<sup>45</sup> Despite the city's already spiralling debt, the public coffers were taken advantage of by "unscrupulous officials." Given all of the public spending, the city had very little to show for it: The county jail was unfinished, and the station house was a "disgraceful cellar, insecure and filthy." There was no public fire department (concerning for a city so beleaguered by both intentional and accidental fires), and "there was a force of about seventy-five policemen... to cope with all the criminal problems of the city," replete with allegations circulating that some of the force were in league with local criminals.<sup>46</sup> It should be noted that this barely functional system of local authority was governing over an ever-growing populace. Most importantly in Williams'

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<sup>44</sup> Williams, *Papers*, 1.

<sup>45</sup> Williams, *History of the San Francisco Committee*, 163-164.

<sup>46</sup> Williams, *History of the San Francisco Committee*, 168-170.

analysis, this included “a constant swarm of non-residents.”<sup>47</sup> The city was struggling with debt and crime, all under the spectre of potential incendiary ruin. All of this was being reported, editorialized and sensationalized by a few influential and well-circulated local newspapers, among them the *Alta*. Williams pointed to “radical expressions of the leading newspapers” being key in inciting “popular restlessness.”<sup>48</sup>

It was these conditions, argued Williams, that made the Vigilance Committee a popular idea. Setting a clear tone for the rest of her analysis, Williams asserted that Committee “did not originate, as is sometimes presumed, in the imagination of hot-headed extremists who cowed the law-abiding community into temporary subjection.”<sup>49</sup> Williams’ interpretation, particularly when discussing the Committee’s earliest actions, rests on the wisdom, and sovereignty, of the crowd. This is an important point of contention in the Committee’s formative days, and one that has been revisited by scholars including John Caughey and William Ellison.<sup>50</sup> Williams reasoned that the state of affairs in San Francisco in terms of crime, punishment and fire risk was sorry enough that the decision to form such a vigilante band could only have been reached out of desperation, and with pure – that is, genuine and disinterested – intentions. In terms of day-to-day operation, she pointed toward the “order and system” prevailing in the Committee’s papers, and at times went out of her way to assert the purity of the Committee’s intentions: “the very haste and roughness of composition preclude the idea of evidence deliberately fabricated to conceal brutality or injustice.”<sup>51</sup>

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<sup>47</sup> Williams, *History of the San Francisco Committee*, 167.

<sup>48</sup> Williams, *History of the San Francisco Committee*, 172.

<sup>49</sup> Williams, *History of the San Francisco Committee*, 186-187.

<sup>50</sup> John W. Caughey, *Their Majesties the Mob* (Chicago, IL: University of Chicago Press, 1960); William Henry Ellison, *A Self-Governing Dominion: California, 1849-1860* (Berkeley, CA: University of California Press, 1950), 192, 194.

<sup>51</sup> Williams, *History of the San Francisco Committee*, 221.

Barring a handful of very early histories – all of which fall into that awkward Bancroftian category of being both a secondary history and a contemporary account – *History of the San Francisco Committee*'s existence as perhaps the earliest scholarly text to deal exclusively with the Committee of 1851 comes with some issues. Almost all of the other texts consulted by this thesis came afterward, often shedding light on specific areas where, in the 1920s, Williams was in the dark. One specific example that demonstrates how some mysteries have been illuminated by more recent histories would be the resignation of Brannan in June of 1851. Williams' consultation with only the Committee's surviving minutes gave away nothing as to the reasoning behind his abrupt departure beyond finding himself insulted by the then-Sergeant at Arms, A.J. McDuffy. In brief, it became clear that committee legislation regarding alcohol was of such distaste to Brannan – a man known for his drinking habits – that he resigned.<sup>52</sup> All of the work undertaken to establish this came after Williams' time of writing (in this case, chiefly in Will Bagley's *Scoundrel's Tale*). Holes or uncertainties – unavoidable or otherwise – in Williams' work undermine its claims of being a comprehensive, detailed treatment of the vigilantes' records.<sup>53</sup> More importantly, they highlight the age of this assuredly important text, one that is almost unfailingly consulted in depth by scholars researching the Committee as part of their own broader project. None of this is to say that Williams is wrong, or that her work is devoid of utility. It is to say at that the canonical text on the Vigilance Committee's outsized influence on the topic has negatively affected historical understandings of the vigilantes' formation and work.

Much of Williams' work remains valid, arguably indispensable, to anyone wishing to give any concerted attention to the Committee of 1851, particularly when discussing the transcribed volume of papers that accompanied the monograph, titled *Papers of the San*

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<sup>52</sup> Will Bagley, *Scoundrel's Tale: The Samuel Brannan Papers* (Spokane, WA: The Arthur H. Clark Company, 1999) 327-328.

<sup>53</sup> Williams, *History of the San Francisco Committee*, 4.

*Francisco Committee of Vigilance of 1851: Minutes and Miscellaneous Papers, Financial Accounts and Vouchers*. A sample of the original papers compared with Williams' transcription proved to be consistently accurate. She vehemently adhered to her initial goal of chronologically ordering the papers, even in situations where it confused particular cases. The transcription is replete with the original writers' typing errors (with "indispensable corrections" noted in square brackets), curious notations and marked sections in the relatively rare occurrence that the original document was illegible. Her transcription is never speculative: a particularly good example is consistent misspelling or respelling of names by Committee members. An early example involving one Thomas Burns/Byrnes is never confirmed, nor unified by Williams.<sup>54</sup> While it is practically certain this is one and the same man (given that the inconsistency occurs within the one single-page document), Williams committed to transcribing only and exactly what was contained in the papers held by Isaac Bluxome, Jr. Anything close to editorializing is confined to her preface; her brief praise of the Committee in the opening pages does not permeate through to the reprinted papers. The aforementioned collection of the original documents at the Bancroft Library are accompanied by Williams' *Papers*, a convincing assertion of the overall accuracy and impartiality of her transcription.<sup>55</sup> In short, while access to both the originals and Williams' transcription has been useful, the printed copy is superior in that it collects and repeats the written word of the plethora of interim secretaries and correspondents in a much more manageable type and form, not to mention being much easier to procure. With this in mind, all citations of the Committee's surviving documents in this piece will be in reference to Williams' *Papers* book, rather than the originals.

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<sup>54</sup> Williams, *Papers*, 44.

<sup>55</sup> Bancroft Library Staff, "Guide to the San Francisco Committee of Vigilance of 1851 Papers, 1851-1852," *Online Archive of California*, 1997, [http://www.oac.cdlib.org/findaid/ark:/13030/tf7k4005vx/entire\\_text/](http://www.oac.cdlib.org/findaid/ark:/13030/tf7k4005vx/entire_text/).

The problem, then, is reconciling the simultaneously indispensable and problematic aspects of work that Williams authored relating to the Vigilance Committee of 1851. The two volumes – *Papers* and *History* – are best taken together, and no researcher of the Committee seeking a close to comprehensive picture of the group can ignore what remains the definitive statement on the topic. It is undeniable therefore that Williams’ lengthy tome has set the terms of debate regarding the Committee. The focus on the Committee’s most infamous acts – the four men they hanged – is understandable, but represents only a snapshot of what these vigilantes did, particularly on a day-to-day basis. The group’s daily actions were often mundane and bureaucratic, and very rarely exploded into the bombast of hangings, lashes and expulsions. Moreover, the focus on the Committee’s most brutal exploits has clouded assessment of the group’s success – or failure – on their own terms or otherwise.

Other scholars have simply been more interested by the bombast of the San Francisco’s 1856 brush with vigilantism: Ethington, Ryan and others relegate the 1851 Committee to precursor status to the more military-oriented incarnation that came five years later.<sup>56</sup> Claiming strong ties to the original organisation, the 1856 Committee pivoted from its forbearer in its preoccupation “with politics and political crimes,” compared to the plainer mandate of violent crime. Moreover, the 1856 variant was significantly larger, counting over six thousand daily participants marching through the city during the summer of that year. In simple words, “the Committee of 1856 far surpassed the open rebelliousness of its precursor.” The first Committee’s most famous exploits – hangings, deportations and whippings – pale in comparison to the later incarnation’s penchant for “capturing a shipment of federal arms... and trying the chief justice of the California Supreme Court.”<sup>57</sup> Though Ethington devotes concerted attention to the first Committee into his far-reaching study of

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<sup>56</sup> Ryan, *Civic Wars*, 137; Ethington, *The Public City*, 89.

<sup>57</sup> Ethington, *The Public City*, 89.

San Franciscan political and public life, rarely is the first vigilante organisation a story on its own.

Thematically speaking, scholarship on the Vigilance Committee has been, as outlined, dominated by attempts to reconcile legal and moral concerns. This in turn has been particularly defined by subtly different definitions of core terms such as ‘vigilantism’ and ‘popular sovereignty’. How scholars conceive of vigilantism usually explains how positively or negatively they receive the Committee’s formation and actions. John Caughey explains this best in *Their Majesties the Mob*:

Whatever else is said about vigilantism, it must be remarked that it is a subject afflicted with a sliding scale of labels. At the outset, therefore, it is advisable to pin down one basic definition. Vigilantism, lynch law, mobocracy – these are but some of the variant terms. Each has an emphasis of its own, but in all of them the essence is the same. That essence is a group action in lieu of regular justice.<sup>58</sup>

The vigilantes’ fiercest advocates for the vigilantes’ ethical propriety – notably two of the earliest – are Bancroft and Williams. In the former’s case, the defence of the vigilantes borders on sycophantic, at least in part due to Bancroft’s lived experience in San Francisco from just after the Committee’s appearance, and his freely-admitted association with them while working on *Popular Tribunals*.<sup>59</sup> “I hold them in profound estimation, for they are the savior of life and property,” wrote Bancroft, foregrounding both the necessity of action in a lawless San Francisco and the honest-intentioned men who instigated it.<sup>60</sup> Without suggesting that Bancroft’s personal opinion is irrelevant, his discussion of the Committee in *Popular Tribunals* is littered with these platitudes. Bancroft’s characterisation plays up the Committee

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<sup>58</sup> Caughey, *Their Majesties the Mob*, 5.

<sup>59</sup> *Men and Women of America: A Biographical Dictionary of Contemporaries* (New York, NY: L.R. Hamersly & Company, 1910), 87; Bancroft, *Popular Tribunals*, 216.

<sup>60</sup> Bancroft, *Popular Tribunals I*, 205, 313.

as a positive force, and he is reluctant to employ terms with more extreme connotations such as ‘lynch law’ that might indicate a more violent organisation (terms readily used contemporarily by the *Alta*). Williams, though perhaps not as gushing as Bancroft, is convinced of the purity of the Committee’s intentions by their decision to leave a record of their illegal exploits, and the “order and system” found in that record.<sup>61</sup> Crucially, these two texts exist as the earliest major works about the Committee, and this infused moral concern characterised much of the scholarly attention towards the Committee, at least up until the mid-20th century.

Surveying those who have responded to, or incorporated Williams’ work shows a trend of preoccupation with the legality and ethicality of the actions committed in the name of the Vigilance Committee. George Stewart defended the good conscience of the Committee in preserving their records, while also noting the extremely poor reputation Australian men – the oft-cited common enemy of the Committee and the city – had, rightly or wrongly.<sup>62</sup> Kevin Mullen focused on public consent to the Committee’s existence and actions, and the popular assertion that “the regular justice system was just not up to the task of maintaining law and order,” in understanding the *de facto* legality and authority of the vigilantes.<sup>63</sup> This debate is usually situated within competing understandings of popular sovereignty, and the legitimacy of direct democracy in its purest form: that of the people of San Francisco stood in front of a gallows to decide a prisoner’s fate. Ryan in particular asserted that, according to the *Alta*, “the source of political legitimacy” in San Francisco “rested in a public assembly in the square,” in this case the prominent central point of the early city known simply as the Plaza,

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<sup>61</sup> Williams, *History of the San Francisco Committee*, 221.

<sup>62</sup> George R. Stewart, *Committee of Vigilance: Revolution in San Francisco, 1851: An Account of the Hundred Days when Certain Citizens Undertook the Suppression of the Criminal Activities of the Sydney Ducks* (Boston, MA: Houghton-Mifflin, 1964), 7, 303. Stewart was a professor of English at the University of California, Berkeley, as well as a popular writer of both fiction and non-fiction. His wide range of published work included an array of historical topics.

<sup>63</sup> Kevin J. Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (London, UK: Palgrave-MacMillan, 2005), 21.

and latterly Portsmouth Square.<sup>64</sup> Though close to descending into the whims of an angry mob, Ryan was clear that “the delicate line between public meeting and mob rule had been drawn but not violated in the dusty plaza of San Francisco.”<sup>65</sup> This was the public communicating and asserting their will, the very same American condition of democracy Paul Conkin explains in *Self-Evident Truths*, one where “covenants rest on either popular consent or popular neglect.”<sup>66</sup>

Clear moralistic criticism of the Committee is rare, especially in modern scholarship, though usually searing when it does appear. William Ellison’s *A Self-Governing Dominion: California, 1849-1860* discussed “an assertive and independent young community” in early California as giving rise to the trends of popular law enforcement exemplified by the Committee. He later characterised this California as one with a contemptuous attitude toward foreigners.<sup>67</sup> He did not mince his words when it came to how the vigilantes administered justice: they “wrought the vengeance they felt was deserved and exemplary...[by] condemning persons to death, without adequate proof.”<sup>68</sup> Ellison’s is perhaps the most obvious example of the ‘conversation’ scholars of the Committee are dragged into having on Williams’ terms. Though he agreed with Williams’ scepticism on how more traditional means of law enforcement could have been adopted, Ellison suggests that “the recognition of this fact has led many to condone the atrocities of mob action.”<sup>69</sup> Even if he criticized their actions, Ellison still cedes that the Committee were a reasonable response to crime in the city, further reinforcing – if only partially – the narrative Williams constructed. Opinions like Ellison’s are assuredly the minority in the body of scholarship regarding the Committee,

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<sup>64</sup> Ryan, *Civic Wars*, 98.

<sup>65</sup> Ryan, *Civic Wars*, 139.

<sup>66</sup> Paul K. Conkin, *Self-Evident Truths: Being a Discourse on the Origins & Development of the First Principles of American Government – Popular Sovereignty, Natural Rights, and Balance & Separation of Powers* (Bloomington, IN: Indiana University Press, 1974), 185.

<sup>67</sup> Ellison, *A Self-Governing Dominion*, 192, 194.

<sup>68</sup> Ellison, *A Self-Governing Dominion*, 193.

<sup>69</sup> Williams, *History of the San Francisco Committee*, 78; Ellison, *A Self-Governing Dominion*, 194, note 1.

perhaps due to the consistent acknowledgement and engagement by later scholars with the earliest – and most problematic – histories of them.

The preoccupation of Williams and Bancroft with the moral implications of the Committee's extralegal formation acts as cover for the group's numerous shortcomings and failures during their brief effective tenure. Their prevailing opinion was that the Committee's intentions were pure, though they acknowledged that occasionally the actions went awry. Though Bancroft noted that the Committee "was only known by its results," he and others asserted that hearts and minds in the association were genuine in their pursuit of ridding San Francisco of crime.<sup>70</sup> Frank Smith equated critics of the Committee to be "grossly in favour of vice, or else sadly deficient in the plainest principles of common sense," asserting that condemnation of the vigilantes' work to be a "great injustice to [its] respectable members."<sup>71</sup> However, these emphatic assertions of respectability and genuineness among the membership has caused ignorance of an important area of discussion regarding the Committee's tenure: how *effective* were they? As these early analyses become bogged-down in defending and debating the vigilantes' reprehensible actions, scholars are drawn into debating the intentions of the Committee, rather than their relative successes and failures.

As scholars have responded – often sceptically – to the argument of Bancroft and especially Williams, their criticism is still caught within the boundaries of debate established by those formative studies. The first of these issues is crime within in the city, and its connection to the necessary course of action that was the forming of the Vigilance Committee. What often rears its head in early moral justifications of the Committee's shirking of accepted judicial measures is the notion of *necessity*, that something had to be

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<sup>70</sup> Bancroft, *Popular Tribunals I*, 214.

<sup>71</sup> Frank Meriweather Smith, ed., *San Francisco Vigilance Committee of '56: with some interesting sketches of events succeeding 1846* (San Francisco, CA: Barry, Baird & Co., 1883), 15.

done about spiralling criminal and incendiary activity. The truth of this crime-wave has been somewhat contested, though largely accepted as a logical by-product of the rapid influx of hopeful prospectors. Most studies involving the Committee start with a wave of crime and incendiaryism as part of the background, self-evident and concrete like the brick-and-mortar buildings that stood in the burgeoning city. Bancroft's introduction of the notion of a severe crime problem is particularly frustrating. Noting that "Robberies and rascalities of every kind were of daily occurrence... the criminal catalogue of a week's or a month's duration would be startling," he fails to outline or offer this 'criminal catalogue' in any meaningful detail.<sup>72</sup> Given the centrality of Bancroft and Williams' accounts to our modern understanding of the Committee, this is a problematic omission. This is not to lambaste earlier accounts for circumstances outside their control: crime reporting and statistics in mid-century San Francisco was a far cry from anything we would consider adequate today. Rather, it is to say that the assertion of a crime wave is often left *relatively* unsubstantiated, particularly given the readiness of the likes of Williams to acknowledge other factors, such as the role of press hysteria, in contributing to public attitudes to crime.<sup>73</sup>

Though early scholars were unable to substantiate the existence of a crime wave as convincingly as they might have wished, modern scholars have generally bought into this core assertion of Williams' anyway. Some have even tried to piece together that 'criminal catalogue' Bancroft was so fascinated by: concerted statistical analysis has been attempted, notably by Kevin Mullen in *Dangerous Strangers*, who examined the Committee's work mostly through the lens of Australian immigration during the Gold Rush, noting that while their reputation as rogues was not as warranted as the Committee – and sometimes the public – claimed, Australians did commit a disproportionate number of street robberies.<sup>74</sup> Others,

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<sup>72</sup> Bancroft, *Popular Tribunals I*, 203.

<sup>73</sup> Williams, *History of the San Francisco Committee*, 172.

<sup>74</sup> Mullen, *Dangerous Strangers*, 13-28.

including Ryan, have characterised 1850s San Francisco as being similarly lawless, but instead focus on unchecked societal cleavages, most of which were extremely clear in the whole public body: “the real divisions among the people were openly displayed on the streets, and they provoked more than the cosmopolitan voyeurism of the flaneur. They sparked anger, conflict, and the assertion of raw power.”<sup>75</sup> Malcolm Rohrbough agrees in *Days of Gold: The California Gold Rush and the American Nation*, envisioning the city as one “shot through with corruption and vice.”<sup>76</sup> Though the nature of the criminality in the city is a matter of interpretation – the distinctly Australian incendiary and crime problem the vigilantes initially based their assumption of power on seems a far cry from the more general public violence noted by Ryan and Rohrbough – recent scholarship has generally found little issue with Williams’ reasoning that crime was rampant in the city, and that action was necessary. Only a handful, such as Ethington and Mullen, make the distinction between crime and punishment, suggesting it was actually the latter that was the problem.<sup>77</sup> Indeed, establishing where the crime wave was real, exaggerated or even completely fabricated is key to testing the notion of necessity that is so pervasive in early scholarship on the vigilantes.

Lastly, most of the key early literature on the Committee relate these two facets – genuineness of intent and necessity of action – to a broader trend of nineteenth-century California, and the West generally, as a proving ground for the democratic ideals that are purportedly distinctly American. Though rather poetic and grandiose in the earliest histories of the Committee – Williams’ notion that “the frontier has ever been the laboratory of American democracy, where fearless men lay hold of the elemental forces that construct and destroy human society,” being a particular offender – this trend has remained largely intact

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<sup>75</sup> Ryan, *Civic Wars*, 52.

<sup>76</sup> Malcolm J. Rohrbough, *Days of Gold: The California Gold Rush and the American Nation* (Berkeley, CA: University of California Press, 1997), 160.

<sup>77</sup> Ethington, *The Public City*, 98.

through to more modern accounts.<sup>78</sup> The “important symbolic value” of vigilante action emphasized by Brown is echoed by Ethington, who speaks of the “tradition” of vigilante action which the 1851 Committee was only a part of, the whole of which was of import in defining and shaping the democratic traditions of the ever-expanding Union.<sup>79</sup> These relationships often serve as justification for academic attention to the Committee, especially in an extraordinarily turbulent and explosive half-century that began with rising congressional tension over competing visions for the Union and ended with a distrustful and unsatisfying reconstruction after what remains the bloodiest war on American soil. Further evidence of the influence of Williams’ narrative is visible not only in how scholars employ her work, but also when they are drawn into critiquing the logics of her study: Ryan positioned San Francisco as comparable to old, established cities like New York and New Orleans, rather than as part of the aforementioned “laboratory of American democracy” that was Williams’ frontier.<sup>80</sup> In expressly working against preordained and idealistic metanarratives, Ryan’s analysis still indicates acknowledgement, and engagement, with Williams’ work when her discussion of the vigilantes comes into play. These examples demonstrate where scholars’ use of the Vigilance Committee as a case study in popular democracy generally stays within the narrative framework created by Bancroft and Williams.

With Ethington saying that “the best histories of the Committee are two of the earliest ones,” it seems those accounts of the Committee’s time in power have come to dominate the historical landscape.<sup>81</sup> This state of affairs has been perpetuated by a few factors, one being the perceived insignificance of the Committee in terms of broader narratives: if better examples of vigilante violence, excess and direct democracy in antebellum America exist, the

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<sup>78</sup> Williams, *History of the San Francisco Committee*, 8.

<sup>79</sup> Brown, *Strain of Violence*, 97; Ethington, *The Public City*, 88.

<sup>80</sup> Ryan, *Civic Wars*, 9; Williams, *History of the San Francisco Committee*, 8.

<sup>81</sup> Ethington, *The Public City*, 90.

1851 Committee is simply a footnote to those. Accordingly, academics seeking to quickly summarise and move past the Committee's exploits have consulted that small handful of literature where Brannan, Bluxome and the rest were the centre of attention. Thus, the successes and failures of these formative accounts are perhaps uncritically brought into modern scholarship. Again, it should be stressed that these do not always seriously detract from more recent work because the Committee is so frequently relegated to the background of discussions on the urbanising West (Ethington, Ryan, Mullen), antebellum vigilantism (Caughey, Stewart) or American democracy (Rohrbough, Brown). The prevalence of these formative studies in subsequent scholarship is what makes this study a valuable one. Given the influence and respect Bancroft and Williams' work on the Committee of Vigilance commands, establishing whether or not they got it right in the first place is crucial.

With past secondary discussion of the Committee in mind, the goals of this thesis should be discussed. Without ignoring the assuredly important legal and moral issues that surround the Committee, the thesis will focus mostly on three things. Firstly, the *necessity* of the Committee: this term is bandied about by many of the scholars of the vigilantes, most notably Bancroft and Williams, yet is rarely unpacked. A consultation with contemporary newspapers – most prominently the *Alta* – as well as the Committee's own papers will be used to assess the state of affairs with regard to criminality in San Francisco and the outlying area. By understanding the concerns of the public and those who went on to form the Committee, one can make sense of how legitimate concern about crime, and those who were perpetrating it, was. Understanding what made the Committee necessary – or, indeed, unnecessary – is crucial to understanding why they appeared so fully formed so quickly, and also why they faded away at a similar speed.

Secondly, the thesis will establish the level of *success* of the Committee, free of the subjective or problematic measures of righteousness and popularity relied on by most

scholars so far. How does the Committee's legacy fare when tested against their own stated aims? Most primary and secondary attention to the group, while rarely hailing them as perfect, has been positive and admiring, though their incredibly brief tenure as an effective organisation seems to contradict this, as do the legal problems and infighting. The organisation was well received by the public, and in its earliest exploits appeared comparatively powerful, yet just over three months after its inception it was confined to relative obscurity. Again, while not ignoring moral composition or the law, this section is more interested in establishing how far the Committee achieved its own aims, and perhaps offering a much-needed insight into what caused the wheels to fall off so soon. Establishing the relative failure of the Committee in this way is important primarily because it demonstrates how a commitment to romanticised, heroic narratives of San Francisco's brush with vigilantism in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries belied the reality that vigilance committees were in fact only another symptom of the local government's shortcomings. Chapter 2's analysis proves that since the Committee of 1851 generally failed in their aims; did not uphold the credos they were repeatedly praised for adhering to; and inspired even bloodier extralegal violence in the same city five years later; the state of affairs in 1851 would have been best remedied by a municipal government with greater resources instead.

The third chapter will draw together these concerns while offering a detailed examination of the most prominent secondary literature regarding the Committee. The aim of the chapter will be to demonstrate how the implications of the first two chapters severely undermine received narratives of the Committee, and how prevalent these narratives are in modern scholarship. It will also argue that scholars have fallen into interpretive ruts, in large part due to the accepted dominance of both Williams and Bancroft on the historiographical landscape and the boundaries of debate. The chapter holds that the support for the Vigilance

Committee found in Bancroft and Williams' accounts was an ill-advised attempt to reinforce and cement this greater importance, an unnecessary and counter-factual effort.

Last, with the limitations of the study enumerated, the applications and importance of it will be explained, relating the Committee to the kind of political activism that, throughout the 1850s, would steadily intensify with the American Civil War rounding ominously into view. Moreover, the reconfiguration of the Committee as an organisation that ultimately failed, and the manner in which that reality has been obscured by early scholars, might complicate narratives where other movements and vigilantism generally are a valuable, laudable part of the cornerstone of popular sovereignty, a concept so often characterised as integral to the distinct American democratic tradition. The Committee is an important, formative example of this violent activism in spite of the fact that it was both superfluous and ineffective.

## **Chapter 1: “The offspring of necessity”: crime, society and the press of Gold Rush San Francisco.**

Though the largest settlement on the bay, Yerba Buena – ‘good herb’ in Spanish – was little more than a handful of tents before the Mexican-American War.<sup>1</sup> Indeed, with the landing of a few hundred Mormon migrants – led by one Samuel Brannan – in the summer of 1846, the village’s population had doubled.<sup>2</sup> It is shocking to say the least, then, that by June of 1851 when vigilante action went from being an editorial dream to a violent reality, the settlement now known as San Francisco was quite suddenly home to over 23,000 people.<sup>3</sup> What occurred in this short period serves not only as the birth of the city, but also – and most importantly for this study – the emergence of the conditions by which several hundred residents took matters of crime and punishment into their own hands. The intent of this chapter is to establish the reality of crime in the fledgling city. After a brief recount of the city’s rapid rise to significance in the 19<sup>th</sup> century West, this chapter will firstly establish the self-proclaimed basis on which the Committee of Vigilance of 1851 formed and acted. In identifying and understanding their justifications, an attempt can be made to test these assertions of specific problems against contemporary newspaper accounts and statistical material. The chapter will close by relating this state of criminal affairs in 1851 San Francisco with *necessity*, the watch-word of so many reigning histories in justifying the presence and actions of the vigilantes.

In the grand scheme of ceded Mexican territory, Yerba Buena was a relatively unremarkable settlement when the Americans assumed initial martial control, like much of

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<sup>1</sup> Frank Meriweather Smith, ed., *San Francisco Vigilance Committee of '56: with some interesting sketches of events succeeding 1846* (San Francisco, CA: Barry, Baird & Co., 1883), 5.

<sup>2</sup> Roger W. Lotchin, *San Francisco 1846-1856: From Hamlet to City* (New York, NY: Oxford University Press), 8.

<sup>3</sup> Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851: A Study of Social Control on the California Frontier in the Days of the Gold Rush* (Berkeley, CA: University of California Press, 1921), 167.

the vast Californian tract of land they won through the Mexican-American War. The initial impression of the California territory, predating the war, was optimistic: United States Minister Waddy Thompson advised then-Secretary of State Daniel Webster that the geographic fortune of San Francisco was such that it could “receive the navies of the world.”<sup>4</sup> Such a grand vision seemed some way off at the opening of 1848: Caughey reeled off a laundry-list of problems: “its political future was clouded, its economic prospects strictly limited, [and] its population small, miscellaneous, and discordant.”<sup>5</sup> For Yerba Buena more specifically, the earliest seeds of urbanization were planted thanks only to the ongoing war. Lotchin noted that since the village was the largest of the fledgling bay settlements, American military apparatus – “the Quartermaster’s Store, the troops’ quarters, and the customhouse” – gravitated towards the settlement.<sup>6</sup> While this military occupation would not last an especially long time, valuable infrastructure would make Yerba Buena the more desirable of the bay settlements in terms of trade.

Though the vast majority of the area’s population growth towards the end of the decade is assuredly attributed to the now-legendary striking of gold at Sutter’s Mill in 1848, a few notable migrations gave the burgeoning town an early population base. As well as the aforementioned Mormon expedition – which brought not only a literal flock from the less than accepting East, but, crucially for this study, the vigilantes’ future leader – a steady influx of merchants and whalers bolstered the population. Through the schooners of a William Richardson, a wide variety of merchants – ranging from representatives of Boston hide traders to the Hudson’s Bay Company – were able to distribute and trade their goods with the scattered Spanish Mexican populations within the bay.<sup>7</sup> Such economic opportunism would

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<sup>4</sup> Peter R. Decker, *Fortunes and Failures: White-Collar Mobility in Nineteenth-Century America* (Cambridge, MA: Harvard University Press, 1978), 4.

<sup>5</sup> John Walton Caughey, *Gold is the Cornerstone* (Berkeley, CA: University of California Press, 1948), 1.

<sup>6</sup> Lotchin, *San Francisco 1846-1856*, 8.

<sup>7</sup> Lotchin, *San Francisco 1846-1856*, 7.

prove to be more than a one-off in Yerba Buena, as would its transient population. Peter Decker noted that these “hide droughers” from Boston were always sending their product back East to supply boot and shoe factories in Massachusetts and would leave as soon as the trade dried up.<sup>8</sup> The establishment of these early population groups would be the catalyst in the town’s – and the region’s – earliest discussions of law and governance in the area. The region’s earliest efforts were largely improvised and citizen-administered. Williams and Josiah Royce found the pre-1848 Mexican law seemingly inadequate, though Dwinelle emphasised the robustness of local governance both before and just after its “conquest by the Anglo-Americans.”<sup>9</sup> Though the urgency would not come until later, it seems at least reductive to suggest that the making of Yerba Buena lived and died entirely with the Gold Rush.

Naturally, the sea-change in the area’s population was in large part due to the storied Gold Rush of January 1848. While the tale is often wistfully told, its effects cannot be understated: in less than a year following, around the same time that the city and county adopted the name San Francisco, the town’s population ballooned. “30,000 Americans made the trek across the Oregon Trail that summer” according to Leonard L. Richards, who reminds us of another important population dynamic forming: less than one thousand of these trekkers were women.<sup>10</sup> From the other points of origin – China, Australia, or elsewhere in the U.S. – the story was the same: those who took up temporary or permanent residence in San Francisco were significantly more likely to be male than female. This also leads us to another key demographic shift in the region: as well as a ballooning, male-dominated

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<sup>8</sup> Decker, *Fortunes and Failures*, 3.

<sup>9</sup> Williams, *History of the San Francisco Committee*, 40; Josiah Royce, *California: From the Conquest in 1846 to the Second Vigilance Committee in San Francisco* (New York, NY: Houghton-Mifflin, 1886), 194; John Whipple Dwinelle, *The Colonial History of the City of San Francisco* (San Francisco, CA: Towne & Bacon, 1866), iii.

<sup>10</sup> Leonard L Richards, *The California Gold Rush and the Coming of the Civil War* (New York, NY: Alfred A. Knopf, 2007), 48.

populous, San Francisco became increasingly ethnically diverse over those twelve months. 1847 saw the village populated by less than five hundred people, almost four-fifths of whom were white, and a huge majority of those whites being “native-born Americans.”<sup>11</sup> Within a year, the bay attracted people from a myriad of cultures, ethnicities and backgrounds. In the space of a half-decade, the town went from seeing a migration of merchants as its primary influx to hundreds of hopeful prospectors from China alone.<sup>12</sup> Most crucially for this study, this swathe of diverse immigration into the city included 11,000 Australian men and women by May 1851, with a further 36,000 living elsewhere in San Francisco County.<sup>13</sup> Whoever was leaving for the burgeoning city, it was not hard to see the appeal: “with a little muscular effort... a quick fortune could be collected and parlayed into a prosperous life at home” in Decker’s words.<sup>14</sup> Even if one had no interest in mine work, wages in the area skyrocketed as the market desperately sought replacements for the residents who had quickly deserted their labouring work in search of gold.<sup>15</sup> As the town grew into a city almost overnight, it took on the familiar trappings of a 19<sup>th</sup> century frontier settlement: public spaces (the Plaza), newspaper presses, and an unsettled political landscape as those so inclined tried to wrest control of this land of promise.

Even with this exponential population growth, sovereign authority – or, at least, a 19<sup>th</sup> century frontier flavour of it – did not necessarily follow. The federal government – chiefly then-President James K. Polk – aired concern about whether, in Williams’ words, “California and Oregon were too distant to become members of the Union,” and fittingly little in the way of federal effort to establish law and order in the region was visible.<sup>16</sup> California specifically

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<sup>11</sup> Decker, *Fortunes and Failures*, 5.

<sup>12</sup> Mary P. Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley, CA: University of California Press, 1997), 22.

<sup>13</sup> Sherman L. Ricards and George M. Blackburn, “The Sydney Ducks: A Demographic Analysis,” *Pacific Historical Review*, 41, no. 1 (February 1973): 20.

<sup>14</sup> Decker, *Fortunes and Failures*, 7.

<sup>15</sup> Decker, *Fortunes and Failures*, 8.

<sup>16</sup> Williams, *History of the San Francisco Committee*, 92.

lacked even the most basic of geographic, political or legal organisation, which was absolutely incompatible with the booming bay population. Little trace of Mexican authority was left over when the war drew to a close: in 1837, the Mexican Congress rescinded legislation that allowed villages and towns their own *ayuntamientos* and *alcaldes* (councils and Justices of the Peace) to deal with their own affairs. Greater central control – at least in theory – was the replacement in the form of justices of the peace.<sup>17</sup> After the Mexican-American War, these settlements went from being under the tenuous control of a central government to a possession of a republic that was not completely certain it even wanted to fully annex the territory. The transition from Mexican to American governance alone would have been turbulent enough, but the striking of gold at Sutter’s Mill in 1848 would cause thousands to flock to the bay made the situation even more complicated.

In terms of establishing a basic chronology of how California went from territory to state, and how that change impacted San Francisco, it is easiest to start with the initial American occupation of the territory in 1846. During that occupation, the American military government generally did not interfere with existing Mexican judicial norms, nor did they alter the structure of government.<sup>18</sup> Instead, they populated the government with Americans, overseen by the temporary military governor, who would assume civilian control in principle until the war ended in 1848. In fact, it took until December 1849 for the first democratically elected governor, Peter Hardeman Burnett, to take charge, and then a further nine months before Congress admitted California as a state.<sup>19</sup> Before that, a number of high-ranking U.S. military officers grappled with both the ongoing war and trying to establish something approaching effective control over California’s population. After just over a year of relative

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<sup>17</sup> Williams, *History of the San Francisco Committee*, 25.

<sup>18</sup> J.M. Guinn, “Pioneer Courts and Judges of California,” *Annual Publication of the Historical Society of Southern California*, 8, no. 3 (1911): 174.

<sup>19</sup> Royce, *California*, 213.

instability, Richard Barnes Mason presided over perhaps the most important period of American control to that date, serving from May 1847 until April 1849.<sup>20</sup> This period included the striking of gold at Sutter's Mill in January of 1848, as well as the six-month (February-July, 1848) process of negotiating, signing and ratifying the Treaty of Guadalupe Hidalgo. Robert Glass Cleland explained that "the political status of the newly acquired territory was in a state of curious uncertainty" as a result of the treaty's signing.<sup>21</sup> Though one might have expected that the Mexican laws in effect before – and seemingly during – the conflict remain in place "until definitely superseded by congressional legislation," Cleland asserts that they were "wholly abandoned," leaving successive governors Mason and Bennet C. Riley (April 1849 – December 1849) to address the territory's absence of formal foundational codes as a matter of urgency.<sup>22</sup> This resulted in the constitutional convention being held in Monterey. California's constitution received federal ratification in 1850, and the state entered the Union in September of the same year.

Though a far cry from the extralegal violence that was soon to come, San Franciscans responded to the lack of governmental clarity by taking matters into their own hands, and in the process ran afoul of the law – or, at least, Governor Riley's understanding of it.<sup>23</sup> The illegal 'legislative assembly' citizens formed in San Francisco in 1848 mirrored other public efforts all over the territory to organise local and even territorial government. Citizens in San Jose met in December 1848 to discuss "the propriety of establishing a Provisional Territorial Government for the protection of life and property," weary of congressional deadlock on the question of slavery that had relegated California's status and government to a side-issue.<sup>24</sup> Even with these improvised local authorities, there was still a lack of clarity as to who was in

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<sup>20</sup> Royce, *California*, 159-160, note 25.

<sup>21</sup> Robert Glass Cleland, *A History of California: The American Period* (New York, NY: The MacMillan Company, 1922), 247.

<sup>22</sup> Cleland, *History of California*, 248.

<sup>23</sup> Williams, *History of the San Francisco Committee*, 65.

<sup>24</sup> Cleland, *History of California*, 250.

effective control of San Francisco: Bancroft counted no less than three separate town councils, each claiming to be *the* town council, in January 1849.<sup>25</sup>

Though the territorial government passed numerous statutes and established new court systems, the uncertainty of the previous years translated into what Johnson called “ambiguity towards the law’s legitimacy.”<sup>26</sup> Accordingly, Californian towns, villages and hamlets fended for themselves judicially speaking too, something they did through popular tribunals. Though the notion of violent popular justice was made infamous by the Committee in 1851, it should be noted that popular tribunals were relatively common, particularly in smaller mining communities, throughout California. A story related by Caughey neatly explains the dilemma communities faced in dealing with crime, and how they could deal with it: “at Dry Diggings, near Coloma, five men were caught in the act of robbing a Mexican gambler. The time was January, 1849, which was long before any official agencies of justice had penetrated the region. The options seemed to be to let the culprits go or for the miners to act as a court.”<sup>27</sup> Two years later, weeks before the emergence of the Committee of Vigilance in San Francisco, the story remained the same in Drytown, Amador County: “a Mexican killed a Chinese. His guilt was so obvious that a trial was not deemed necessary.”<sup>28</sup> Citizens of settlements ranging from mere mining camps to recognisable towns were taking on roles of jury and executioner as and where necessary. Naturally, records do not consistently detail who was on each of these tribunals, nor indeed if they were a regular fixture in their own town’s pseudo-justice system. Even still, the important difference here is scale: these

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<sup>25</sup> Hubert Howe Bancroft, *The Works of Hubert Howe Bancroft, Volume XXXVI: Popular Tribunals, Vol. I* (San Francisco, CA: The History Company Publishers, 1887), 106.

<sup>26</sup> David A. Johnson, “Vigilance and the Law: The Moral Authority of Popular Justice in the Far West,” *American Quarterly* 33, no. 5 (Winter, 1981): 566.

<sup>27</sup> Caughey, *Gold is the Cornerstone*, 233.

<sup>28</sup> Caughey, *Gold is the Cornerstone*, 234.

tribunals were assuredly ad hoc compared to the Committee's organised, regimented and regulated approach to mob justice.

In San Francisco, what bureaucracy that *did* emerge was, at least relative to the population, inadequate, and plagued by corruption and incompetency. The Legislature of California would recognize the Pueblo of San Francisco on 15 April 1850. This resolution included, for example, provisions on the corporate limits of the city. Crucially, though, the Legislature's recognition of San Francisco stipulated that, as soon as the City Charter came into effect, all previous powers and functions of local government would cease.<sup>29</sup> The fledgling city would almost immediately find itself grappling with debt, something that would be a recurring theme as the decade progressed. Early efforts such as the 'Sinking Fund' sought to delay those debts until the city was able to pay them by "gradually liquidating from... the annual revenue of the city."<sup>30</sup>

The city's debt coincided with a relatively unstable period of civic governance, where the city's first five mayoralities lasted roughly a year or less. Even before the city government's elections began, a number of eventual Committee men were competing for legitimate political power. Eventual leader Samuel Brannan and Executive Committee member Alfred J. Ellis served on consecutive city councils: 6 August 1849 to 10 January 1850, and again from 11 January until 8 May of the same year, roughly coinciding with the Legislature's recognition of San Francisco.<sup>31</sup> Despite the debt, the city still held elections for sheriff and other public offices, necessitated by the sharp rise in the local population. They were contested by relative strangers – not that the city had a particularly well-established

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<sup>29</sup> Dwinelle, *Colonial History*, 92-93.

<sup>30</sup> Dwinelle, *Colonial History*, 92; 192.

<sup>31</sup> Dwinelle, *Colonial History*, 112. Ellis was an infrequent member of the Executive Committee during early meetings having his name taken at roll call 20 times out of a possible total of 62. However, he stopped attending altogether by late August of 1851, along with a number of others around the same time. Mary Floyd Williams, ed., *Papers of the San Francisco Committee of Vigilance of 1851: Minutes and Miscellaneous Papers, Financial Accounts and Vouchers* (Berkeley, CA: University of California Press, 1919), 819-821.

local community in the first place.<sup>32</sup> For their services, Williams asserted they received “obnoxious salaries” in the face of a city with spiralling debt, particularly given the devastation caused by frequent fires.<sup>33</sup> Additionally, the grandeur of new offices and the status they carried alienated citizens from their councillors and judges, accentuated by the fact that many of these offices had been taken by strangers to the city. Where previously town councils included locals acting in absence of legitimate alternatives, the city’s first sheriff was a former Texas ranger, John C. Hays. John W. Geary, who had arrived in San Francisco in January of 1849, became the city’s first mayor.

As well as the high salaries the new officials commanded, some celebrated California’s admission into the Union on 9 September 1850 by “voting themselves each a beautiful gold medal as a present from the city of San Francisco,” the same city that was trying to navigate its way out of debt through fiscal austerity.<sup>34</sup> Where citizens might understand their taxes being used to shrink the public debt or fix fire damage, they were perhaps less enamoured with that money being spent on their councilmen’s self-aggrandizing trinkets. Lavish-spending strangers dominating early offices in the new city was perhaps not the way to inspire local and regional confidence in the notion that legitimate governing and legislating bodies represented a better alternative to the previous trend of improvised tribunals and administration. Day-to-day, the operation of legitimate criminal justice and government in towns and cities like San Francisco perhaps seemed little different from the improvised solutions from the years prior, except it now cost them money (taxes were collected quite effectively, with the city pulling in about ninety percent of what it was owed between 1850 and 1851).<sup>35</sup>

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<sup>32</sup> Williams, *History of the San Francisco Committee*, 141-142.

<sup>33</sup> Williams, *History of the San Francisco Committee*, 164-165.

<sup>34</sup> Bancroft, *Popular Tribunals I*, 109-111.

<sup>35</sup> Lotchin, *San Francisco 1846-1856*, 151.

For the courts, matters were similarly messy. By December 1849, with the state constitution having passed the constitutional convention, a tribunal chaired by William B. Almond set to deciding cases where potential damages exceeded one-hundred dollars – though its jurisdiction was limited only to civil cases.<sup>36</sup> This ‘Court of First Instance’ ultimately proved short-lived, replaced by Justice of the Peace courts, the Recorder’s Court and the County Court of Sessions collectively relieved Almond of his authority in 1850.<sup>37</sup> With those courts needing to be staffed, the elections of April 1850 saw the city choose a judge and recorder, as well as other important positions such as sheriff in an official capacity for the first time in the city’s American history. In August of the same year, Horace Hawes was appointed prefect, an office “of his own creating... [whose duties were] to take care of public order and tranquillity; [and] to publish and circulate, without delay, observe, enforce and cause to be observed and enforced, the laws.”<sup>38</sup>

Lotchin asserted that the public found the local government contemptible, and reacted with “non-cooperation and outright obstruction.”<sup>39</sup> To that end, the public would react by refusing to serve on juries, choosing not to vote, or simply not abiding by the city’s new bylaws and ordinances.<sup>40</sup> Where Bancroft found this to be people rightly acting in their “sovereign privilege,” Lotchin asserted that public disobedience only exacerbated the issues facing the state.<sup>41</sup> This represents another side of the debate surrounding the local government, one overlooked in the portrayals of rampant corruption and vice utilized by Bancroft and Williams. Based on certain testimony it seems clear that many citizens had a right to be angry at the way their taxes were being spent, or to be suspicious of the incoming

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<sup>36</sup> Bancroft, *Popular Tribunals I*, 107-108; John Myers Myers, *San Francisco’s Reign of Terror* (New York, NY: Doubleday, 1966), 43.

<sup>37</sup> Lotchin, *San Francisco 1846-1856*, 139.

<sup>38</sup> Bancroft, *Popular Tribunals I*, 109-110.

<sup>39</sup> Lotchin, *San Francisco 1846-1856*, 142.

<sup>40</sup> Lotchin, *San Francisco 1846-1856*, 163.

<sup>41</sup> Christopher Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America* (New York, NY: Palgrave MacMillan, 2002), 93-95; Bancroft, *Popular Tribunals I*, 8-17.

sovereign authority. However, Lotchin found that they did little to help or improve the situation, calling San Franciscans throughout the late 1840s and early 1850s a “noncooperative community”, one that was governed “about as well as it deserved” to be.<sup>42</sup> Indeed, as this chapter will explore, local press outlets had little in the way of patience or understanding for the local authorities, usually due to both the city’s financial woes and the way local knowledge had been cast aside during the city’s legal overhaul, in favour of dispassionate judgement. Succinctly, Johnson’s reminder that “the beliefs and institutions presupposed by our modern criminal justice system have not always held sway,” explains how San Franciscans and Californians generally were uncertain and occasionally uncooperative towards the judicial system and city government when it finally arrived.<sup>43</sup> The brief period between California becoming a barely organized American territory, and the advent of San Francisco’s first brush with organised vigilante action, highlights that lack of enthusiastic support and trust. Likewise, the debacle involving the citizens’ efforts to form illegal local assemblies also showed at least a receptiveness to the idea of disregarding the law when the local population – or parts of it – was sufficiently motivated by an issue.

In addition to spiralling debt and a lack of legal clarity and trust, early San Francisco was beset by fires, and the city’s financial insecurity only intensified as a result. The cycle was a vicious one: repeated fires were exacerbated by the lack of a public fire department, and the damage caused put further strain on the city’s crumbling finances. Lotchin noted that while much of the public till was used by “those demanding ordinary services such as street building and fire prevention,” it was also spending on non-governmental ventures too: orphanages, asylums, and savings banks all took subsidies.<sup>44</sup> Still, it was fires that evaporated the public coffers. According to Amy Greenberg, between 1849 and 1851, *nine* major fires

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<sup>42</sup> Lotchin, *San Francisco 1846-1856*, 163.

<sup>43</sup> Johnson, “Vigilance and the Law,” 586.

<sup>44</sup> Lotchin, *San Francisco 1846-1856*, 142-143.

would leave the city footing a bill to the tune of twenty-eight million dollars.<sup>45</sup> This leads us to another source of public concern: incendiarism. Naturally, with the speed at which the city's population rose, hopeful miners were not arriving to an established, brick-and-mortar settlement. Ryan characterises San Francisco "as late as 1850... [as] a few tents and rough-hewn buildings clustered around one plaza."<sup>46</sup> The city was a work in progress: what buildings existed were temporary, band-aids while the city's barely-existing government sought to accommodate its burgeoning population. With these devastating fires came knock-on effects, such as increased rates of arrest for other crimes: Kevin Mullen noted seventy arrests made in the aftermath of the first of five 'great fires' just before Christmas in 1849, all for stealing.<sup>47</sup> Though the city did fund a police department, it employed a measly seventy-five officers to protect and serve 23,000 restless miners and merchants. Williams asserted rampant corruption in their ranks, something the Committee would brush with later in 1851.<sup>48</sup> Mullen notes the cruelly ironic rise in the homicide rate *after* the public police department was established.<sup>49</sup> In the time immediately preceding the Committee's rise to authority, both fire and crime were spiritedly held back by loosely organised rabbles of volunteers. Greenberg characterised a system of volunteer fire companies fuelled only on the tributes of the community, one hardly equipped to deal with the persistent threat of fire in San Francisco.<sup>50</sup> Likewise, a volunteer night's watch patrolled the city half-heartedly in the weeks leading up to the Committee's inception in June of 1851.<sup>51</sup> Accusations of corruption and general inadequacy would come to dominate the press – the primary focus of this chapter –

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<sup>45</sup> Amy Greenberg, "Cause for Alarm: The Volunteer Fire Department in the Nineteenth Century City" (PhD thesis, Harvard University, 1995), 91.

<sup>46</sup> Ryan, *Civic Wars*, 27.

<sup>47</sup> Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (London, UK: Palgrave-MacMillan, 2005), 17.

<sup>48</sup> Williams, *History of the San Francisco Committee*, 169.

<sup>49</sup> Mullen, *Dangerous Strangers*, 15.

<sup>50</sup> Greenberg, "Cause for Alarm," 17.

<sup>51</sup> Williams, *History of the San Francisco Committee*, 180.

and acted as another important circumstance in the cited reasons for the Committee of Vigilance's formation.

Another direct effect of this population boom was an increasing tension between and within the swathe of companies vying for their share of the Gold Rush's promised riches, a tension that, in some cases, began to manifest before many even disembarked from the boat. Rohrbough explains how the idleness due to the long voyage "generated internal conflicts as companies of forty-niners split into factions and bickered among themselves."<sup>52</sup> As well as cleavages within social groups, the confluence of these American economic migrants and those from further afield quickly became a bad-tempered one, with Ellison blaming "a brutal and hearty contempt for foreigners" on the American side.<sup>53</sup> As we consider what conditions facilitated the rapid rise of the Committee of Vigilance in June of 1851, the fact that social and cultural tensions were laid bare *years* beforehand, and the relative ignorance of the federal government to its newly acquired territory, cannot be ignored. It was in this San Francisco – tense, corrupt and lawless – that regional press outlets such as the *Alta California* would cast as the setting for, in their view, a wave of crime in the fledgling city.

To understand how local newspapers such as the *Alta* characterised and amalgamated a series of events into the so-called wave of crime, we must first skip ahead to June of 1851, chiefly to the date when a group of men met at the California Engine House with a view to establishing a vigilante organisation. The focus here is exclusively on the stated aims of the Committee: those made by or on behalf of the group's steering core, either in speeches to crowds, distributed handbills, or any other of their papers that were readily available. Since the chapter's intent is to explore just how necessary the group's existence was, understanding

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<sup>52</sup> Malcolm J. Rohrbough, *Days of Gold: The California Gold Rush and the American Nation* (Berkeley, CA: University of California Press, 1997), 57.

<sup>53</sup> William H. Ellison, *A Self-Governing Dominion: California, 1849-1860* (Berkeley, CA: University of California Press, 1950), 195.

how they conceived of their own relevance and centrality to San Francisco's immediate future is crucial.

Perhaps the most important and plain of the Committee's documents in ascertaining their purpose is their constitution, dated 8 June 1851 – and made available to the general public the following day in the *Alta*. Though early scholars such as Henry Martin Gray had speculated on what the organization's objectives were based on what the Committee did during its tenure in power – “ridding the community of the escaped convicts from the penal colonies of Australia” was among his list – it is important to distinguish between the *actual* stated goals of the Committee's own members and those which scholars have extrapolated from their actions.<sup>54</sup> The Committee's full (and very rarely actually used) title, “The Committee of Vigilance for the protection of the lives and property of the citizens and residents of the City of San Francisco”, seems an appropriate place to start.<sup>55</sup> The Committee's aim to protect life and property reflected two concerning trends that have more recently been quantified by Kevin Mullen: an upward spike in both homicides and robberies.<sup>56</sup> The constitution itself made more specific allusion to those they thought were violating the city's peace: “thieves, burglars [or] incendiary assassins” are the specific offenders named in the document, an omitted reference (crossed out in the draft, and not present in any published copy) to gamblers notwithstanding.<sup>57</sup> On its face, the Committee's concerns were hardly moralistic, at least beyond adhering to Aquinian ideas of natural law. To try to curtail murders, robberies and burglaries is a fairly understandable goal. Bancroft called the difference between “war-butcheries and highway-butcheries... more ideal than

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<sup>54</sup> Henry Martin Gray, *Judges and Criminals: Shadows of the Past: History of the Vigilance Committee of San Francisco, Cal., with the Names of its Officers* (San Francisco, CA: Henry Martin Gray, 1858), 11-12. The majority of Gray's book deals with the 1856 incarnation of the Vigilance Committee.

<sup>55</sup> Mary Floyd Williams, ed., *Papers of the San Francisco Committee of Vigilance of 1851: Minutes and Miscellaneous Papers, Financial Accounts and Vouchers* (Berkeley, CA: University of California Press, 1919), 2.

<sup>56</sup> Mullen, *Dangerous Strangers*, 14-15.

<sup>57</sup> Williams, *Papers*, 1.

real,” but it seems, publicly, that the Committee was dedicated mostly to making San Francisco safer by solving problems that the vast majority of the local population would likely agree were indeed problems.<sup>58</sup> However, the Committee did spark controversy – or at least, potential consternation – in their constitution. The group was no doubt well aware of the city’s recently established police force, and had unequivocal opinions on its performance. In particular, the vigilantes took issue with what they perceived as obviously guilty men and women “escaping punishment...[by] the carelessness or corruption of the police, or a laxity of those who pretend to administer justice.”<sup>59</sup> Two things are clear here: first, that the Committee was as concerned with what they perceived as adequate punishment of criminals as much as catching them in the first place; second, that both the courts and police were not doing anything close to enough in their efforts to discipline and punish. In short, the Committee existed, at least in its own terms, on the basis that there was a crime problem and that whatever forces of law currently existed were not doing enough about it.

The Committee’s early published output was limited, but their interaction with the public through speeches and consultation was a cornerstone of many – contemporary and more recent – justifications of their existence. Popular consent and approval, though conspicuously absent from their constitution, was regularly called upon before many acts of justice were carried out. The first major action attributed to the group was the hanging of John Jenkins, an Australian or “Sydney Cove,” accused of the theft of a safe. In the events directly leading to the tying of the noose, Bancroft noted Brannan’s appeal to the assembled crowd: “tell me, does the action of the Committee meet with your approval?”<sup>60</sup> For the Committee, the theory was that they were responding to public dissatisfaction with crime, and that they were punishing it only in accordance with the public’s wishes. Moreover, these

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<sup>58</sup> Bancroft, *Popular Tribunals I*, 202.

<sup>59</sup> Williams, *Papers*, 1.

<sup>60</sup> Bancroft, *Popular Tribunals I*, 234.

punishments were public in every sense of the word: not only were hangings staged in the open streets – usually near the Plaza – but they were well recorded in multiple contemporary newspapers.<sup>61</sup> This accountability did not initially extend to the names of the Committee members being public. Amid cries of “no names! No names!” at Jenkins’ hanging, the group’s members, other than perhaps Brannan, were initially reticent to have their identities revealed.<sup>62</sup> One can perhaps understand why: the barely launched Committee feared the results of Coroner Gallagher’s inquest, which indeed charged nine of the members with Jenkins’ unlawful killing (the charges were never followed up, in large part due to citizen support for the group’s actions).<sup>63</sup> Still, anonymity was no longer feasible, and could at least be spun as an effort on the Committee’s part toward even greater accountability. The vigilantes were clear in their published goals, and at least gave the impression that they were fervently committed to acting only with public approval in even their lightest punishment.

Moving past this and the otherwise brief and functional constitution – the rest largely being resolutions on where to meet, and when – the Committee’s public disclosures were limited, at least in terms of these more direct statements of public intent. It is worth noting here that many historians of the Committee have sought to infer other intentions, particularly when defending or lauding the vigilantes’ work. Chief among these are Hubert Howe Bancroft’s assertions about the group in *Popular Tribunals Vol. I*. For example, his suggestion that the Committee sought to bring justice to criminals “through the regularly constituted courts, if that could be; by a more summary and direct process, if must be” is not substantiated by any of the Committee-penned documents that state their aims.<sup>64</sup> Indeed,

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<sup>61</sup> Williams, *History of the San Francisco Committee*, 212.

<sup>62</sup> Williams, *History of the San Francisco Committee*, 213.

<sup>63</sup> “City Intelligence: Coroner’s Inquest,” *Daily Alta California*, 12 June 1851. Note: this and all *Alta* sources were obtained via the California Digital Newspaper Collection (CDNC), available online through the University of California Riverside. It is highly searchable by publication, date, article or keyword. The URL and other general citation information is listed in the bibliography.

<sup>64</sup> Bancroft, *Popular Tribunals I*, 209-210.

direct quotes from Brannan and other ranking Committee men include “to hell with your courts. *We* are the courts – and the hangmen!” in response to a Mayoral plea that the trial of the two men suspected of the murder of a local merchant should be left to more legitimate avenues of justice.<sup>65</sup> In fairness, Bancroft himself grew close to the Committee’s former members upon his arrival in San Francisco, much of his account being compiled through interviews with them. Still, this was after the fact; whether Bancroft or the Committee felt they acted in cooperation with the law *wherever possible* in hindsight means little when one is analysing their goals at the time and before they had undertaken any vigilante action. Separating objective fact from that which is more a question of interpretation regarding the group’s goals is difficult with this subject, largely because of the dominance of two historians (the other being Williams) in framing and managing the story of the Vigilance Committee. As well as casting focus back onto not only what we know for certain, this section will also focus on the Committee as a necessary organisation at the time. Opinion or judgement on the vigilantes’ moral convictions, or conjecture regarding their intentions, are of little value when trying to establish the *necessity* of the group’s existence.

Establishing the Committee’s public *modus operandi* serves as a yardstick in discussing the state of affairs in San Francisco during the first half of 1851 and chiefly how the endemic crime and corruption did or did not manifest, both in mainstream press and through more concrete, factual avenues. This analysis will be measured against the reasons the Committee publicly employed to justify their own existence, to test how they hold up. To focus on one press outlet would likely be problematic in other studies where the intent is to gauge either a crude picture of the crime rate, or opinion on that topic. However, the *Daily Alta California* is ingrained in a more complex discourse regarding the Committee.

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<sup>65</sup> Peter Decker, *Fortunes and Failures: White-Collar Mobility in Nineteenth-Century America* (Cambridge, MA: Harvard University Press, 1978), 122.

Historians have speculated as to the fates of certain newspapers: one of the city's great fires – that of 4 May 1851 – destroyed a number of papers' headquarters, as well as their records and back-issues. Will Bagley asserted that only the *Alta* survived the blaze, which seems unlikely given the albeit scattered records of the *San Francisco Daily Herald* at least.<sup>66</sup> Whereas the *Herald* is distributed seemingly randomly at American facilities stretching from Massachusetts to California, the *Alta* is fully intact. The main reason for this study's focus on one publication is the comparative importance of the *Alta* in formative studies such as Williams'. Her study overwhelmingly preferred the *Alta*: over one chapter regarding the organization of the Committee, Williams cited unique *Alta* articles sixteen times, compared to seven references to the *Herald*.<sup>67</sup> Moving past somewhat crude quantitative analyses, it seems that the *Alta* articles typically relate more specifically to machinations of the Committee itself. It is Williams' own footnotes that on occasion indict her selectivity in foregrounding favourable evidence: the *Herald*'s editor, John Nugent, was supposedly so opposed to the Committee's resurfacing in 1856 – bringing with it reverence of the 1851 incarnation – “that hundreds of patrons terminated their subscriptions... the *Herald* was greatly reduced in size. It never recovered its lost prestige.”<sup>68</sup> The paper had a sceptical editor, the same editor who presided over the papers' reporting during San Francisco's first brush with vigilantism. Compared to the *Alta*, whose editors included at least one confederate of Brannan's, the *Herald* appears at the very least a less reliably positive outlet, resulting in Williams' sparing use of it, particularly when it came to the Committee's actual day-to-day operations. The *Herald* was often relegated to background and context: cases such as the safe theft that resulted in John Jenkins' hanging were reported with hysteria by the *Alta*; the *Herald* being

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<sup>66</sup> Will Bagley, *Scoundrel's Tale: the Samuel Brannan Papers* (Spokane, WA: The Arthur H. Clark Company, 1999), 319; Library of Congress, “Libraries that Have It: The San Francisco Daily Herald. (San Francisco, Calif.) 1850-1856,” *Chronicling America: Historic American Newspapers*, n.d. <https://chroniclingamerica.loc.gov/lccn/sn82016461/holdings/>.

<sup>67</sup> Williams, *History*, 186-208.

<sup>68</sup> Williams, *History*, 410.

the sole reporter of the safe's recovery days later.<sup>69</sup> Inoffensive, uncontroversial references to the paper by Williams such as this highlight not only the extreme hyperbole of the *Alta's* reporting, but also Williams' intent to draw primary attention toward the *Alta* in describing a favourable characterisation of the Committee by relying on its reporting for the milestone events of the group's run.

The *Herald* is far from unimportant, but a critical analysis exclusively of the sources most relied on by formative historians is of value: as much as this study is committed to establishing, broadly, the effectiveness and necessity of the organisation, it is also preoccupied with understanding and critiquing the confining narratives set up by the reigning histories of the Committee, chiefly Williams'. This study is able to cast doubt on the necessity of the Committee based on only the same sources foregrounded by the vigilantes' firmest advocates: by positioning the *Alta* as the *premier* source for justifying the Committee's existence as Williams did, this study can both reimagine the vigilantes and start to deconstruct the boundaries of debate so painstakingly set by Williams and Bancroft. Understanding these flawed internal logics is crucial because of the traceable influence these factual boundaries have had on modern scholarship, a concern for the final chapter. As such, the *Alta* will be comfortably the primary source in terms of establishing and characterising the crime wave that the Committee of Vigilance would so readily point to as justification for their existence.

Much has been made of the *Alta's* influence in early San Francisco, in part because it was borne of one of the earliest newspapers in the burgeoning settlement, the *California Star*. The *Star's* owner, the very same Samuel Brannan whose name would be planted firmly at the end of the most important Vigilance Committee communiqués, sold the paper in the late

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<sup>69</sup> *San Francisco Daily Herald*, 11<sup>th</sup> June 1851, in Williams, *History*, 210.

1840s. The question of his influence on future editions is one worth asking. Edward C. Kemble was hired by Brannan as a partner in publishing the *Star*, with Brannan eventually “relinquishing the paper to Kemble” in January of 1848.<sup>70</sup> Douglas Watson noted that Kemble was the editor of the *Star* before its absorption by the *Alta*, where he was obviously kept on and remained into 1853, as part-owner and editor.<sup>71</sup> It seems that, for the most part, Kemble had the greatest influence on the paper while it was reporting on the city during the early 1850s. Other editors, such as John Everett Durivage, contributed, but only for a handful of months in 1850.<sup>72</sup> Just how far Kemble was under the thumb of Brannan is a separate question: for example, Bagley points out that the commonly held wisdom that Brannan was able to influence Kemble into delaying and downplaying news of the Gold Rush is likely false.<sup>73</sup> What is plausible is that the editorials were written by men Brannan had been in league with as a former newspaper proprietor himself, and may well have considered friends. Kemble’s editorials reflected a position sympathetic to the vigilante cause due to personal convictions, and a friendly relationship with Brannan, rather than necessarily being held in the thrall of his former associate, might explain that.<sup>74</sup> This interested editorship of the *Alta* further complicates Williams’ foregrounding of the paper over other sceptical publications, and also frames the articles and crime reports that preceded the Committee’s establishment.

In terms of tracing a visible trend of both support for vigilante action and concern for problems with crime, the *Alta*, in the year preceding the Committee’s incorporation, began with extremely cautious support for lynch law, backed by what Johnson characterised as an pre-existing “customary and complex American distrust of legal institutions” among the

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<sup>70</sup> James O’Meara, “Early Editors of California,” *Overland Monthly*, 1889: 491.

<sup>71</sup> Douglas Watson, “Herald of the Gold Rush: Sam Brannan,” *California Historical Society Quarterly*, 1931: 299; O’Meara, “Early Editors,” 491.

<sup>72</sup> O’Meara, “Early Editors,” 498.

<sup>73</sup> Bagley, *Scoundrel’s Tale*, 264-265.

<sup>74</sup> It is unclear as to whether Kemble & Durivage were indeed the authors of these opinion pieces, since the vast majority of articles published in the *Alta* are left unattributed. A note in Williams’ monograph concerning the Committee (p. 176) suggests the pair were relatively hands-on editors, so such speculation seems warranted.

Californian public at the start of the decade.<sup>75</sup> This support was always in response to grislier robberies and homicides. An attempted murder and the theft of \$4000 worth of gold dust occurred on the 15 July 1850.<sup>76</sup> Two days later, the editors penned a long-winded analysis rather unequivocally titled “The Outrages in the Mines,” one of the earliest instances of the paper floating the idea of extralegal justice to its audience.<sup>77</sup> A concern was expressed thusly:

Measures have, however, been adopted by the American residents, which, although they are harsh and of a character not legalized by the law, have frequently to be adopted in new countries, where the law can, from the nature of things be but imperfectly administered. However much we may deplore the circumstances which call for such extreme measures, we can readily excuse them when we reflect upon the wanton and gross outrages which have led to their adoption. When, in an industrious and hard-working community, it is found that neither life nor property is safe, and that the existing law is powerless to protect, one of the inherent principles and laws of nature dictates self-protection and preservation.<sup>78</sup>

Of interest here is how qualified and careful the reference to this kind of vigilante action is; a suggestion more than a cry for change. The writer did not mention explicitly what these measures were – although by the admission that it was illegal and harsh, it was lynch law, or extralegal justice more generally, that springs to mind. That the specifics of these practices go so glaringly unexplained here was telling given this article was published less than 12 months before the Committee would announce their arrival with the execution of John Jenkins.

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<sup>75</sup> David A. Johnson, “Vigilance and the Law: The Moral Authority of Popular Justice in the Far West,” *American Quarterly* 33, no. 5 (Winter, 1981): 565.

<sup>76</sup> “Attempted Murder,” *Daily Alta California*, 15 July 1850.

<sup>77</sup> “Outrages in the Mines,” *Daily Alta California*, 17 July 1850.

<sup>78</sup> “Outrages in the Mines,” *Daily Alta California*, 17 July 1850.

Perhaps explaining in detail the potential and frequent gruesomeness of mob justice would undermine the point.

Additionally, this passage highlights the circumstances by which these “extreme measures” would be necessary, and it is surprisingly ambiguous in doing so. “Wanton and gross outrages” had been the cause of adoption of these practices elsewhere, yet any more specificity is sorely lacking. Moreover, the article moves abruptly on to discussing the city’s inhabitants as victims of these mystery practices, typifying them as “an industrious and hard-working community,” one that assuredly did not deserve this dire state of affairs. The current legal system was noted as inadequate in defending the most basic rights of San Franciscans, before the article tails off. Two conclusions from this particular excerpt would be repeated time and time again in the following year: first, that the current justice system was inadequate, and failed to meet the basic needs of the townspeople. Second, that the city was rife with crime. Most importantly of all, each invocation of these claims would be vague and backed up by little to no evidence that related to the state of affairs in San Francisco specifically.

Subtler editorializing and embellishing of local crime often sensationalized the state of affairs in San Francisco regarding it. Indeed, “Outrage,” dated 12 September 1850 raises concerns about criminality by relating a case where, seemingly, no crime even took place:

An inoffensive man was knocked down by a gang of desperate fellows, on Tuesday evening last, in Kearny street, near the City Hotel, evidently for the sole purpose of robbing his person of a considerable sum of money known to have been in his possession at the time. Before, however, the miscreants could effect the robbery they

were put to flight by the appearance of several citizens, and thus escaped arrest and recognition.<sup>79</sup>

At first glance, this article reads as a fairly standard report of an attempted robbery. However, a few notable elements of conjecture and speculation damage the article's credibility. The jump from a man being knocked down to someone being pushed "evidently for the sole purpose of robbing his person of a considerable sum of money" is a big one. The addition that these "desperate thieves" escaped too quick to be apprehended or even recognised paints a picture of a San Francisco being infested with anonymous, unidentifiable robbers. Notably, the article does not include any kind of witness descriptions of the supposed villains, leaving us to ponder the purpose of the article if, unlike other reports, it does not *inform*. The incident is likely real, but the article's lack of firm information is problematic. The piece is extremely brief (the extract above being the entirety of it), leaving the reader to fill in the blanks as they see fit. One should not overstate the importance of this article; differing journalistic standards might explain this article as being careless more than insightful. Still, not days later was the *Alta* again alluding to both a growing presence of rogues in the city and the need for them to be removed from the city one way or another. "We have many desperate characters from the states in our midst, and until the city is purged of those assassins and robbers, too much care cannot be used," asserted the paper in closing a robbery report dated 16 September 1850.<sup>80</sup> The picture of San Francisco in the *Alta* as early as 1850 was one of both rising crime and, more disturbingly, anonymous crime.

In-keeping with trends of scare-stories like that of the robbery that never was, what detail the *Alta* could go into often stoked fear by playing on – allegedly legitimate – prejudices of the readership, the most notable of these being Australian men. According to

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<sup>79</sup> "Outrage," *Daily Alta California*, 12 September 1850.

<sup>80</sup> "Murderous Assault and Robbery," *Daily Alta California*, 16 September 1850.

Monaghan, Australia accounted for eight-and-a-half percent of Gold Rush migrants arriving by boat in 1849.<sup>81</sup> This contingent – typically referred to as the Sydney Ducks or Coves, were treated with suspicion almost immediately upon arrival. The territory’s reputation as little more than a land of British criminal exiles prompted wariness from those already landed in the bay, even though realistically everyone was a newcomer. Mullen’s detailed analysis of the Australian experience weighs up both sides of this frictional relationship, noting that though this contingent did sport a worrying number of rogues – roughly thirteen percent of the Ducks in California had criminal records – they were mostly victim of the aforementioned concerns about fire, homicide and robbery, “which were thought at the time to be the particular province of Australian immigrants.”<sup>82</sup> Regardless of the truth – or fiction – behind these prejudices, the *Alta* noted any Australian involvement in crime whenever they had access to it, particularly in the months immediately preceding the Committee’s ascent to power in June 1851. One impassioned appeal to the police to try and convict James Stuart noted his involvement in “a regularly organised gang of Australian thieves, robbers and murderers.”<sup>83</sup> ‘Australian’ reads as a derogatory adjective rather than something functionally descriptive here, and the feelings of the paper regarding this gang is unequivocal: “the world cannot produce a more desperate set of unhung cutthroats.”<sup>84</sup> A week before that, a report dated 9 March 1851 detailed an attempted boat robbery. The *Alta* suspected Sydney men, on seemingly the sole basis that the captain thought he was Australian.<sup>85</sup>

To be sure, the criminal gang that the *Alta* referred to was a menacing presence, particularly in the latter part of 1851: the paper was not necessarily reporting sensationally or inaccurately. Rather, specifying assumed nationalities where they were able to highlights the

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<sup>81</sup> Jay Monaghan, *Australians and the Gold Rush: California and Down Under, 1849-1854* (Berkeley, CA: University of California Press, 1966), 121.

<sup>82</sup> Mullen, *Dangerous Strangers*, 13, 23.

<sup>83</sup> “To the Police,” *Daily Alta California*, 17 March 1851.

<sup>84</sup> “To the Police.”

<sup>85</sup> “Daring Outrage,” *Daily Alta California*, 9 March 1851.

very prejudices Mullen and others have alluded to. It is worth noting no other white groups found their national identity referenced so consistently in news reports (a typical nativist prejudice against Mexican and Chilean economic migrants was regrettably alive and well). The kind of language used toward Australians is also evident in the use and misuse of the term ‘Sydney Ducks’. Though Sydney was the primary point of origin for a good chunk of the migrants, Ricards and Blackburn noted that almost forty percent of those known Australians in and around San Francisco had come from elsewhere in the territory, such as Port Adelaide.<sup>86</sup> Moreover, the term itself belied a complexity in the actual group of people who made the crossing in search of a fortune in gold. At least “two hundred had been born in Ireland and were probably farmers who had left during the potato famine,” and Ricards and Blackburn argue this was evident in their “largely Irish... style of speech and living patterns.”<sup>87</sup> Burchell agrees, noting that the fact that “many of these Australians were in fact Irish... needs adding to the traditional account.”<sup>88</sup> The tarring of the whole group as criminal, and the inaccuracy of the claim that they were all even Australian, highlights the scaremongering the *Alta* was engaged with in terms of constructing an ethnic crime problem. Ironically, the Irish themselves (or, perhaps, those who fitted the bill for being Irish), found San Francisco comparatively hospitable relative to the ills of growing nativist sentiment back east.<sup>89</sup> An urge to treat these ‘Ducks’ or ‘Coves’ with suspicion was a line the paper peddled frequently, and this highlights another component to the violent, anonymous crime wave that the *Alta* was lamenting judicial inaction towards: the gold rush had attracted people from inherently criminal parts of the world, and they were wreaking havoc on the city. Where available, though perhaps not as egregiously as their tendency to pontificate about lynch law,

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<sup>86</sup> Ricards and Blackburn, “The Sydney Ducks,” 21.

<sup>87</sup> Ricards and Blackburn, “The Sydney Ducks,” 29, 31.

<sup>88</sup> Robert A. Burchell, *The San Francisco Irish, 1848-1880* (Berkeley, CA: University of California Press, 1980), 124.

<sup>89</sup> Burchell, *The San Francisco Irish*, 4, 6, 10.

the paper would fuel locally-held prejudices to further its own editorial position of both a crime problem and an inadequacy in pre-existing, legitimate judicial processes, ignoring, in Stewart's view at least, the fact that "the editors were overlooking the circumstances that almost no clues existed" to crack these cases.<sup>90</sup>

As time marched closer to the hour of the vigilantes, those early veiled references to lynching became steadily more forthright. By the time of Jenkins' execution, a lengthy editorial expressed a still cautious but generally plainer support for vigilante action:

We have never been advocates of mob or lynch law, of snatching from the hands of legal tribunals the powers legitimately conferred upon them, or of depriving any man of the benefit of a fair and impartial trial by his fellow men. Yet in the present condition of our municipal affairs, we cannot conscientiously condemn the people for the course they have felt themselves compelled to adopt. Deeply as we deplore the occasion for the exercise of such acts, we must admit that necessity absolutely demanded the assumption of power.<sup>91</sup>

Compared to the 'outrages' of a year before, this article is more brazen in terms of referring to both the act of lynching and defending it. The only real similarity was the effort of the editors to distance themselves in a personal capacity from the "deplorable" acts. That "[they] had never been advocates of mob or lynch law," was a patent untruth in this case. Given that the paper throughout the past year had made numerous references and, in some cases, outright pleas for the swift justice, including just over two months before: the trial and conviction of Stuart and Wildred – a pair of rogues who would become important during the Committee's tenure – for the murder of a Mr. Jansen (often 'Janson' in the *Alta*) was

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<sup>90</sup> George R. Stewart, *Committee of Vigilance: Revolution in San Francisco, 1851: An Account of the Hundred Days when Certain Citizens Undertook the Suppression of the Criminal Activities of the Sydney Ducks* (Boston, MA: Houghton-Mifflin, 1964), 8.

<sup>91</sup> "The Execution of Jenkins," *Daily Alta California*, 12 June 1851.

critiqued by the by the paper as a case that could have “been expiated by lynch law and a rope.”<sup>92</sup> Returning to the Jenkins story, the *Alta* again relied on a well-versed scapegoating of “the present condition of our municipal affairs” in formulating justification for extralegal action. This, once again, remains a fairly thin argument, or at least a vague one. Repeatedly, the paper relates a tale of a corrupted and inefficient system of law enforcement, but rarely backs it up with evidence. Even when referring to the police as being “little dreaded, if at all,” it appears more that preference, rather than any objective measure of good policing, is guiding their critique.<sup>93</sup> This yarn is further undermined by the *Alta*’s own admissions of the good and just work being carried out by the appointed authorities, something that happens with curious regularity for a publication simultaneously advocating for vigilante justice. Only months before they were “little dreaded” the police were supposedly “busily engaged in ferreting out thieves, and there is scarcely a doubt that they would be successful” in robbery dated August 1850.<sup>94</sup> Even more tellingly, less than a month before the Committee’s assumption of judicial power, the paper heralded the election of new officials as signalling an end to corruption and the start of some new reforms.<sup>95</sup> This point in particular severely undermines the well-trod argument that the city was at breaking point in June of 1851. In fact, they had given their democratically elected ‘new men’ less than a month to get to work before crying defeat and ushering in an undemocratic and illegal seizure of judicial authority. Positive outlook on the police like this was hardly the norm, but at least indicates an inconsistency in the paper’s rhetoric throughout the supposedly unbearable rate of violent crime in the city.

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<sup>92</sup> “Summary of Events,” *Daily Alta California*, 1 April 1851.

<sup>93</sup> “Robbery,” *Daily Alta California*, 2 October 1850.

<sup>94</sup> “Sacramento Street Robbery,” *Daily Alta California*, 30 August 1850.

<sup>95</sup> Williams, *History of the San Francisco Committee*, 176.

The partiality of the *Alta* to lynch-law is only reinforced when consulting other local newspapers. The *Marysville Daily Herald* reported on crime, but rarely resorted to suggesting mob justice. Indeed, the *Herald* appeared very supportive of traditional judicial apparatus well into 1851. “Our City,” dated 28 February 1851, stood firm behind the nascent city government:

We wanted some improvements made in town, and which could be effected in no other way than by a city organization. They can now be made, as soon as our council goes into operation; and we believe, that by a judicious management of our city affairs, the whole machinery can work, the city be very much improved, and our citizens be better guarded and protected against robbery and crime.<sup>96</sup>

Marysville’s *Herald* barely lined up at all to the reporting trends of the *Alta*. In late 1850, where the *Alta*’s rhetoric of spiralling crime and ineffectual law enforcement was beginning to fully manifest, the *Herald* was actually downplaying the town’s criminality: “it cannot be denied that there is a vast amount of crime committed in this country, but we do not believe the record will exceed that of the same proportion in the single city of New York.”<sup>97</sup> The blind optimism visible in comparing crime in a small town to antebellum New York aside, the *Herald* narrative about crime within both the town’s confines and the state broadly is a far cry from the fear and suspicion of the *Alta*. Marysville would eventually replicate the San Francisco Committee, maintaining correspondence with their inspiration through a series of communications. Even in settlements where vigilantism became more than an editorial pipe-dream, such as Marysville, the reporting seldom matched the lamenting, pleading tone of the *Alta* that crime was out of hand, and that city government was too corrupt or incompetent to deal with it.

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<sup>96</sup> “Our City,” *Marysville Daily Herald*, 28<sup>th</sup> February 1851.

<sup>97</sup> “Crimson California,” *Marysville Daily Herald*, 25<sup>th</sup> October 1850.

To be clear, the *Alta* was far from being the only press outlet in the region suggesting lynching as the solution for spiralling crime. The short-lived *Sacramento Transcript* was arguably more extreme in its advocacy for lynching, with provocative headlines such as “Served Them Right” preceding passionate defences of mob justice.<sup>98</sup> The *Transcript* even brazenly cast itself as having a solemn “moral duty of the greatest magnitude” when responding to concerns about rising population and the crime that came with it.<sup>99</sup> What set the *Alta* and the *Transcript* apart was the latter’s comparative disinterest with the quality of legitimate avenues of policing and justice. Even when the *Transcript* was espousing that, for horse thieves, “nothing would do but downright hanging,” they did not cast the same aspersions of corruption or inadequacy that the *Alta* underhandedly made frequent practice.<sup>100</sup> The point here is that few regional press outlets were covering crime and policing in the same way as the *Alta*. Whether ignoring both issues, like the *Herald*; or focusing energies exclusively on punishment, as with the *Transcript*; none were tackling *both* the issues of criminality and popular justice with the same level of attention or emotion as San Francisco’s supposed paper of record.

Something else the *Alta* did differently from other California newspapers was tread an awkward line between being a local and regional publication, usually for greater effect in its presentation of the crime wave sweeping the area. Robberies were a relatively frequent topic of articles in the *Alta*. At minimum, five separate robberies were reported on by the paper in October 1850, and, despite a dip in November and December, a similar number of discrete reports were published in January 1851. Though this is a relatively crude measure, particularly if one wished to form a picture of actual crime statistics in the city, it tells us that, if citizens were not aware of the crime in San Francisco simply by word of mouth, the *Alta*

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<sup>98</sup> “Served Them Right,” *Sacramento Transcript*, 7 April 1851.

<sup>99</sup> “The Press in California,” *Sacramento Transcript*, 9 August 1850.

<sup>100</sup> “Served Them Right,” *Sacramento Transcript*.

was making sure to inform their readers in as much detail as they had available. These numbers perhaps do not jump out as being indicative of a crime wave or a robbery epidemic, but they are evidence of a city struggling to adapt to the realities of a growing settlement, such as increasing criminality and the presence of unknowns. San Franciscan crime reports were bolstered by reports – often referred to as ‘intelligence’ – from other newspapers or sources about crime in the sparser mining regions or nearby upstart settlements such as Stockton, Sacramento and Marysville.<sup>101</sup> These sections of course reflected the paper’s ostensible regional remit of California, though in reality the paper was based in San Francisco, and referred to it as *the* city and *our* city consistently. Again, while it is far from unheard of for a local newspaper to explore stories outside of its self-defined geographical boundaries, the consistent appearances of intelligence sections from other parts of the territory reinforces the idea that the newspaper was keen to show that crime – particularly violent crime – was becoming a worrying problem in places nearby San Francisco. Ironically, at least for this study, this can be looked at another way: what was happening in San Francisco was *not* particularly remarkable, at least locally. In the 12 months prior to the Committee’s establishment, the *Alta* reported on robberies, homicides and other violent crimes in settlements other than San Francisco with notable frequency. In short, this suggested justice by extralegal means was only as necessary in San Francisco as it was in countless other Californian communities. The point the *Alta* was making was perhaps the opposite – crime was rampant, and something more had to be done – but their own coverage of local affairs failed to back up their presentation of an especially lawless city. Kemble and Durivage’s editing of the paper at this time stoked fear by editorializing and in at least one case embellishing stories, as well as increasing suspicion and paranoia by relating tales of

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<sup>101</sup> “From Marysville,” *Daily Alta California*, 16 September 1850; “Robbery Again in Sacramento,” *Alta*, 17 October 1850; “Robbery in Stockton,” *Alta*, 3 November 1850.

crime by so-called outsiders in other towns, that in reality had little bearing on San Francisco locally. Moreover, this editorial approach was undertaken in a way relatively unseen in towns in the local area, towns that were purportedly experiencing the very same *Californian* wave of crime according to the *Alta*.

Though it is relatively easy to dismantle, criticise and dismiss the *Alta*'s coverage of criminality and other occurrences in the fledgling city, this should not be blown out of proportion. Though the newspaper supported vigilantism before the Committee's rise, and supported it staunchly after, there is little weight to any conspiratorial interpretations of their motives. The paper's frequent praise of police and legitimate justice apparatus challenges the notion that they may have been a mere mouthpiece of the vigilantes' most influential figures. Their portrayal of general criminality is seldom inaccurate: trends in crime the *Alta* reported are trends historians have been able to trace. Randolph Roth, for example, notes the "staggeringly violent" American southwest of the 1840s.<sup>102</sup> However, where the newspaper's picture falls apart is in the detail. The violent crime in the region was exactly that – a trend that affected the whole of California, and perhaps the even the whole southwest. The notion that San Francisco was a particular problem area, one that the *Alta* peddled, seems dubious at best. Thus, we are left with an issue in terms of how the *Alta* is valued and used by historians, the only solution being to judge the published work on its relative merits. The *Alta* assuredly is the premier surviving social history document related to this period of San Francisco's history, largely by default: the foregrounding of the newspaper as the paper of record by Williams, among others, has been integral to the strength of the *Alta*'s position. The *Alta* is the historian's most colourful window into the daily experience in the city, and this has shown in scholarly attention to the period.

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<sup>102</sup> Randolph Roth, *American Homicide* (Cambridge, MA: Harvard University Press, 2010), 354.

The contention of this study is that the *Alta*'s picture of a lawless San Francisco – an image conjured by many a historian in relating the vigilante story – is, at best, an exaggerated caricature, unsupported by contextual evidence. Those who have devoted concerted attention to the Committee of Vigilance and its formation have leant on the *Alta* as a legitimising tool when discussing public uproar about the crime wave, and subsequent support of extralegal violence. For Williams, the *Alta*'s coverage is evidence of the call for vigilante action being “widespread and consistent,” explaining her own frequent consultation with the publication.<sup>103</sup> Where Williams went further in using this interpretation was by citing it as evidence that anonymous presumptions of a vigilante movement being conceived in the “imagination of hot-headed extremists who cowed the law-abiding community into temporary subjection” were baseless.<sup>104</sup> Williams was arguably the first person to try and piece together the Committee's story in a secondary capacity. Perhaps the same can be said of her studying of the *Alta* in informing the state of San Francisco in 1851. Going in blind, unencumbered by a body of true secondary scholarship, Williams constructed the narrative that best fit the evidence available and, more crucially, one that conformed to popular and retrospective opinion about both the Committee and extralegal activity more generally. In particular, the *Alta* made for comforting reading in terms of justifying the illegal vigilante organisation. The *Alta*'s vision of San Francisco is just one example: Williams' discussion of early California came with an overarching point that popular sovereignty was an ingrained, predetermined and uniquely Californian tradition. Commenting on the territory's efforts to organise and prepare for statehood in the late 1840s, she noted “in that action was displayed the fundamental characteristic of California existence in 1848 and 1849: swift agreement by the will of the majority... and cheerful loyalty to such decisions until they might be changed

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<sup>103</sup> Williams, *History of the San Francisco Committee*, 186.

<sup>104</sup> Williams, *History of the San Francisco Committee*, 186-187.

by another popular verdict.”<sup>105</sup> Williams imagines this condition in a way that adds to the positive narrative, that of the Committee being an unsurprising development from this uniquely sovereign public. Her employment of the *Alta* is similar: a focus on that which feeds the idea of the Committee being *necessary*, and selectivity when it comes to areas where this publication – and others – did not fit the narrative.

Bancroft took a snapshot of newspaper coverage and drew sweeping conclusions from it. In characterising the city’s crime, he wrote that “robberies and rascalities [sic] of every kind were of daily occurrence... the criminal catalogue of a week’s or a month’s duration would be startling,” following up with a recount of a handful of cases and incidents that had occurred the month before the Committee was established.<sup>106</sup> The blind assertion of this ‘startling’ imaginary statistic of crimes committed in the city highlights Bancroft’s work here as lacking any kind of factual analysis to demonstrate these points. In noting a handful of crimes and misdemeanours the city experienced that fateful June, he notes they are “scarcely a moiety” of the all the offences, and that the complete list “would be increased tenfold.”<sup>107</sup> Of course, it would be foolish to lambaste Bancroft’s statistical analysis here – ‘tenfold’ is surely hyperbole – but this is not followed with any kind of factual backing. In so much of Bancroft’s characterisation of San Francisco before the Committee – a San Francisco that, it should be noted, he did not live in – relatively thin evidence backs up his description of the severity and hopelessness of the city’s crime problem.<sup>108</sup> There was no alternative to cleaning up the city other than a Vigilance Committee with a penchant for lynching.

Whichever of those approaches is utilised, Williams and Bancroft arrive at the same conclusion, one first – and most poetically – related by Bancroft: “as in every normal

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<sup>105</sup> Williams, *History of the San Francisco Committee*, 65.

<sup>106</sup> Bancroft, *Popular Tribunals I*, 203.

<sup>107</sup> Bancroft, *Popular Tribunals I*, 204.

<sup>108</sup> *Men and Women of America: A Biographical Dictionary of Contemporaries* (New York, NY: L.R. Hamersly & Company, 1910), 87.

evolution, the development [of the Vigilance Committee] was *the offspring of necessity*. A thousand minds were pregnant with the thought that something must be done [emphasis added].”<sup>109</sup> This notion that has pervaded two keystone texts in the history of the Committee has been reinforced by more recent histories – usually those where the Committee has been a secondary or passing focus. Scholars have generally bought into the factual basis of these studies, even when their interpretations differ greatly. In *The Public City*, Ethington noted the inclination for popular sovereignty in the region, suggesting that this trend was established by a half-century of public rule.<sup>110</sup> This fits with the narrative of the development of the Committee being altogether unsurprising, even normal for this purportedly unique settlement. Ethington understood Bancroft and Williams’ respective studies as “the best histories of the committees are still two of the earliest ones.”<sup>111</sup> Though this does not indicate Ethington’s wholesale agreement with these older studies, it highlights the way in which certain scholars have mostly bought into the internal logic and factual holdings of the Committee’s rise and operation. The “comprehensive factual and narrative coverage” the sources offer make them invaluable for Ethington’s effort to deconstruct the political origins and consequences of vigilantism in the city at large. Deferring to an older, respected and established text in this case is not uncommon or wrong. What is problematic is that the flaws and the framing of the Committee so firmly established by these studies – in this case, the nature of the city’s crime problem – become received wisdom. In *Civic Wars*, Ryan ceded that the Committee might have been “a pragmatic response to the disorder endemic to a city that had grown up overnight.”<sup>112</sup> Like Ethington, Ryan is not a cheerleader for Williams’ interpretations, but this conclusion suggests that she did agree with Williams’ characterisation of San Francisco in

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<sup>109</sup> Bancroft, *Popular Tribunals I*, 205.

<sup>110</sup> Philip J. Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (1994, reprint; Berkeley, CA: University of California Press, 2001), 6.

<sup>111</sup> Ethington, *The Public City*, 90.

<sup>112</sup> Ryan, *Civic Wars*, 140.

early 1851 as having a distinct crime problem. Understanding the decision to organise a vigilante organisation as ‘pragmatic’ is certainly more restrained than calling it ‘necessary’ as Bancroft did, but further shows the subtle reinforcement of the internal logics of past studies. Burchell, another relative critic of the Committee’s political aims in *The San Francisco Irish*, understood the existing law enforcement as inadequate, with there being “no evidence that [criminals] would have met [justice] had the committee not taken its stand,” perpetuating the crime wave as a fact of 1851 in San Francisco.<sup>113</sup> One of the firmest moral critics of the vigilante’s violent excesses, Ellison, still understood that “there were criminals, and there was crime... and [there was an] absence for a time of an effective system of control.”<sup>114</sup> The reinforcement of the Committee being a necessary development to a very real crime wave is a noticeable trend, one that speaks to the influence of Williams’ work despite the flaws in her judicious source selection and use of them. This chapter has not argued against the existence of crime in the city. Rather, it has examined the nature and extent of that criminality based on the sources Williams consistently foregrounded. Whether criticising or commending the vigilantes’ formation and action, historians have consistently offered their interpretations with these narrative frameworks and boundaries – accurate or suspect – considered. Those frameworks – those contained in Williams’ towering *History of the San Francisco Committee* – explain the Committee as being an inescapable development based on the imperfections of the *Alta* and some thinly evidenced assertions by Hubert Howe Bancroft. The point here is by no means to rubbish an entire historiography, nor to suggest specific historians have deliberately set out to spread untruths. Rather, it is to challenge a notion of the Committee’s presence being necessary by unpicking the justifications and reasoning for that necessity. By scrutinizing the same primary documents early scholars privileged – the *Alta* – and

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<sup>113</sup> Burchell, *The San Francisco Irish*, 124-125.

<sup>114</sup> Ellison, *A Self-Governing Dominion*, 195, 205.

prioritising producible evidence when exploring the claims and assertions of foundational historians, this study has found that these claims of necessity, of inescapability and of inevitability, are at best flawed.

In questioning these claims, this study thus also casts shade over the Committee's self-affirmed aims outlined earlier. The problems the Committee alluded to in their constitution are not falsehoods, but they were far from the clear-cut interpretation they related to the citizenry. When the moral fortitude of the Committee's membership that Bancroft and Williams foregrounded is cast aside, the question of whether the vigilantes were the only solution to a debatable problem becomes based more closely on empirical evidence. The reality of this analysis is that this ethical preoccupation has belied the fact that a number of fully legal and volunteer options were available and achievable. As well as taking issue with the truth of the *Alta*-trumpeted wave of crime, one has to consider other ways those who became vigilantes could have contributed to a safer city. It should be noted that David C. Broderick, along with a handful of local lawyers, judges and policemen, formed the Law-and-Order party, which ran through legitimate channels advocating for a similar tougher stance on crime that the vigilantes cried out for.<sup>115</sup> A rival of Brannan's politically, Broderick was largely overlooked by those who first documented the Committee's story, with Bancroft assessing him as "honest as a rule in his intentions, but erroneous in his opinions."<sup>116</sup> These erroneous opinions perhaps included an open letter Broderick submitted to the *Alta* a few days after Jenkins' execution, which criticised Brannan as a "turbulent man, ready to trample upon all laws that oppose his private opinions or private ends."<sup>117</sup> This characterisation of Brannan is a far cry from Bancroft's acclamation of his leadership as "the brightest epoch of

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<sup>115</sup> Bagley, *Scoundrel's Tale*, 325.

<sup>116</sup> Bancroft, *Popular Tribunals I*, 320.

<sup>117</sup> "Communication from Mr. Broderick," *Daily Alta California*, 14 June 1851; Bagley, *Scoundrel's Tale*, 326-327.

his eventful life.”<sup>118</sup> Broderick’s criticism of Brannan personally and vigilante action more generally complicates conclusions by early scholars that the Committee were universally supported. Accordingly, Bancroft’s conjecture dismisses Broderick as simply being ‘wrong’ for opposing vigilante action. The reality was that people such as Broderick had indeed organised legally with a view to curbing crime, further putting paid to the idea that the Committee was the only viable solution.

To conclude, this chapter has outlined two main points: firstly, in explaining the state of affairs in 1851 San Francisco, that the *Alta California* wilfully exaggerated the level of criminality in the city, particularly relative to neighbouring towns and settlements. Moreover, a brief examination of other newspapers in the region at the time has highlighted that this response to criminality was distinctive to the *Alta*. Secondly, the selection of this source in informing our understanding of the city at the turn of the half-century led formational historians such as Bancroft and Williams to rely on the newspaper heavily due to its generally favourable attitude to the Committee and support for vigilantism generally, resulting in a skewed, highly sympathetic portrayal of the basis on which the Vigilance Committee formed. This analysis has attempted to complicate that narrative, one so entrenched in histories of the Committee or those pertaining to them, with a view to asserting that the argument of the vigilantes being an “offspring of necessity” is little more than romanticism. Modern scholars have by no means bought into the ‘necessity’ argument at face value, but they have accepted key narrative assertions of Williams and Bancroft – in this case, the existence and characterisation of a crime wave – when writing their own work, assertions that this study has cast doubt on. With this established, the second chapter will continue with an exploration of the Committee’s overall competency and actions during the height of their reign when

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<sup>118</sup> Bancroft, *Popular Tribunals I*, 207.

reconsidered as the unnecessary, superfluous expression of extralegal justice that this chapter has outlined.

## **Chapter 2: “No ambition to figure in history”: action and competency in the 1851**

### **Vigilance Committee’s first 100 days.**

Next to the flagpole at the corner of the Plaza, a lone figure appealed before the crowd: “and now, tell me,” he roared, “does the action of the Committee meet with your approval?”<sup>1</sup> Unsurprisingly it was San Francisco’s very own firebrand, Samuel Brannan, who made what Bagley called the “tactical error” of seeking that awfully public approval.<sup>2</sup> The question at hand, of course, was the decision to hang John Jenkins for theft, and what this assembled crowd said is a matter of conjecture, with the response ranging between cheers, curiosity, confusion and even protests, depending on which history one consults. Regardless of the consternation surrounding the event, a few hundred men of San Francisco had, as eloquently put by Bancroft, “scaled their promises in blood.”<sup>3</sup> The Committee of Vigilance had gone from pipe-dream of the *Alta* to a violent, bloody reality. Their aims officially outlined in the days after, the Committee acted with little restraint to root out criminality in San Francisco.

This chapter follows the analyses of the first by evaluating the competency of the Committee. It does so in order to demonstrate a similar point concerning narrative boundaries – factual or more subjective – set by Bancroft and Williams, and the way they have continued to linger in more recent scholarship. Through consultation with the Committee’s own record, one can judge relative success and, more often, failure, in terms of their stated goals. This analysis will be juxtaposed with how early scholarship received the Committee as an efficient day-to-day enforcement organisation. The underlying argument of this chapter is that when assessment of the Committee is freed from the supportiveness of the earliest commentators,

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<sup>1</sup> Hubert Howe Bancroft, *The Works of Hubert Howe Bancroft, Volume XXXVI: Popular Tribunals Vol. I* (San Francisco, CA: The History Company Publishers, 1887), 234.

<sup>2</sup> Will Bagley, *Scoundrel’s Tale: the Samuel Brannan Papers* (Spokane, WA: The Arthur H. Clark Company, 1999), 323.

<sup>3</sup> Bancroft, *Popular Tribunals I*, 213.

what is left is a spirited but ultimately ineffective organisation with corruptions of its own. If the Committee was a failure in achieving its aims, then their disinterested, genuine aims espoused by the Committee's earliest chroniclers become little more than an excuse for their failures. This analysis will feed into a consideration for the third chapter concerning the legacy of the Committee of Vigilance as being foregrounded by scholars, rather than the inefficient, ineffective reality. Where this study differs in its conclusions from other works is by asserting that the Vigilance Committee of 1851 was important historically *in spite of* its ineffectiveness; rather than trying to construct a version of events that paints it as an especially heroic or efficient one as its earliest scholars attempted. To make that argument, that inefficiency and corruption must first be presented.

As noted in the first chapter, the Committee's stated goals were relatively clear in both their constitution and other early public consultation. Though they acted in clear violation of the purported sovereignty of the municipal government, they did not seek to usurp every aspect of it: as Ethington summarised, "[the Committee] did not attempt to assume such regular governmental functions as fiscal and legislative responsibilities."<sup>4</sup> Though the vigilantes were worried specifically by the incendiarism, homicide and robbery which they viewed as being rife in the city, they were also concerned with prosecution and punishment of those crimes. Supposedly, what existed in 1851 to deal with criminals amounted to the accused escaping via "the quibbles of the law, the insecurity of the prisons, the carelessness or corruption of the police or a laxity of those who pretend to administer justice."<sup>5</sup> Men with criminal pasts like 'Dutch' Charley Duane were the epitome of the kind of laxity and corruption the Committee saw in the courts. Duane had been indicted for seven

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<sup>4</sup> Philip J. Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (1994, reprint; Berkeley, CA: University of California Press, 2001), 88.

<sup>5</sup> Mary Floyd Williams, ed., *Papers of the San Francisco Committee of Vigilance of 1851: Minutes and Miscellaneous Papers, Financial Accounts and Vouchers* (Berkeley, CA: University of California Press, 1919), 1.

public brawls and two attempted murders. Despite his extensive history of violence, his actions rarely resulted in prison time, owing to his political connections to David Broderick and his “corrupt associates” including Edward McGowan and Harvey Brown within the Court of Sessions. When the Committee assumed its self-appointed duties, Duane came under their intense scrutiny, though no action against him was ever taken.<sup>6</sup> Considering cases like Duane’s, one can infer the Committee aimed to tighten up punishment, improve prisons and jails, and root out corruption or incompetency in existing legal channels to ensure that those punishments were administered fairly. The first section of this chapter will, in detail, consider what the Committee did – and did not – achieve, irrespective of the means by which they did so. This will be followed by an exclusive focus on the vigilantes’ general competency in pursuit of their goals, including actions that contradicted their supposedly disinterested approach to cleaning up San Francisco.

When considering the achievements of a vigilante organisation committed to rooting out crime and administering punishment, it is logical that we first deal with the Committee’s general record in terms of arrests, and the course of this infamous period where vigilantes had the final say in San Francisco’s justice. In this regard, Williams’ chronological ordering of the Committee’s surviving papers becomes especially useful. After the Jenkins execution, diligent note-taking by a rotating handful of the Committee’s executive group provides an insight into how often the Committee met, where, and the course those meetings took. Though a little rough at first, by late June 1851 the vigilantes – and the minutes of their meetings – took on a traceable daily schedule, beginning with taking roll. The Executive Committee (EC), the small steering group of the much larger membership, met each morning and on occasion in the evening; and would then begin taking evidence, reports and the like

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<sup>6</sup> John Boessenecker, *Against the Vigilantes: The Recollections of Dutch Charley Duane* (Norman, OK: Oklahoma University Press, 1999), 17-19.

from their membership and anyone else who wished an audience with the vigilantes.<sup>7</sup> By 20 June 1851, the EC resolved to meet “from nine to ten o’clock, and no member be compelled to remain after ten o’clock,” establishing a clear framework for consistent effort in curbing crime.<sup>8</sup> Relatively innocuous resolutions like this (the EC at least operated as a relative democracy in all matters) indicate how the Committee differed from popular tribunals and other ad hoc forms of local justice. Though formed reactively, this was one of many signals of how the vigilantes would go about their work *proactively*. Where popular tribunals met in response to alleged crimes, the Committee would be meeting daily to discuss recent findings from countless investigations, as well as reacting to reported or witnessed criminal activity.

Though both Kevin Mullen and Philip Ethington have suggested that “the issue was not crime itself, but... punishment,” the Committee’s earliest resolutions highlight an intent to police, as well as punish.<sup>9</sup> Entries such as a “Report of Suspicious Characters” (also dated 20 June 1851) document descriptions of supposed untrustworthy characters, including where they had been sighted. There is little information to suggest what either Thomas Scott nor “Moey the Jew” were alleged to have done accompanying the entry, perhaps implying an ongoing investigation or, as the title indicates, an intent to keep half an eye on citizens they suspected of being in some way connected to criminality.<sup>10</sup> Either way, the Committee clearly regarded their role in the city as one of policing San Francisco as well as administering justice on its behalf. Bancroft asserted that the state governor, the mayor of San Francisco, and a long list of local judges and police “maintained the attitude of nominal opposition only, thus to maintain the dignity of the state, but found no occasion to resort to

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<sup>7</sup> Williams, *Papers*, 89-90.

<sup>8</sup> Williams, *Papers*, 62.

<sup>9</sup> Ethington, *Public City*, 98.

<sup>10</sup> Williams, *Papers*, 62-63. The Committee would resolve the same day to arrest both men, again without any clear explanation as to why. Scott did testify before the Committee the day after in reference to identifying a suspect in a separate case, casting further confusion on the reasons for his “immediate arrest” if he himself was not thought to be involved in any criminality.

active measures against the Vigilance Committee.”<sup>11</sup> Smith agreed, finding it “strange that such an organization, which usurped, as it were, the laws of the land, and inflicted the severest penalties, should exist without molestation at this time.”<sup>12</sup> Even if there was disquiet among the regular forces of justice, it seemed to matter little what, for example, the government-appointed police force thought of the development: their force of seventy-five was dwarfed by the hundreds who counted themselves as Committee men.<sup>13</sup> Williams asserted that Sheriff Hays especially had little incentive to “do his duty”: “whether [any given] prisoner was guilty or innocent, the sheriff was aware that the local community would never complain if he yielded to the mob, and that the state authorities could neither reprove him if he gave way nor help him if he chose to resist.”<sup>14</sup> As the first chapter outlined, San Franciscans had also shown little receptiveness to the legitimacy of the new city government and its judicial arm even if the likes of Hays were so inclined to carry out the duties of their office to the letter. Those who supposedly remained committed to their solemn oath, such as associate judge Ned McGowan, found their J.P. courts overrun with angered merchants and malcontents. So bad was the state of affairs that, according to Myers, “even the prisoners had to be armed when in court to keep the Yahoos at bay.”<sup>15</sup> The Committee’s repeated consultation with the public for approval, contrasted with their lack of interest in securing governmental consent, highlights not just how the vigilantes operated on the mandate of popular support from the citizens, but how they had little fear of reprisal from a weak sovereign authority that those same citizens were at best ambivalent towards.

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<sup>11</sup> Bancroft, *Popular Tribunals I*, 334.

<sup>12</sup> Frank Meriweather Smith, ed., *San Francisco Vigilance Committee of '56: with some interesting sketches of events succeeding 1846* (San Francisco, CA: Barry, Baird & Co., 1883), 9.

<sup>13</sup> Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851: A Study of Social Control on the California Frontier in the Days of the Gold Rush* (Berkeley, CA: University of California Press, 1921), 169.

<sup>14</sup> Williams, *History of the San Francisco Committee*, 150-151.

<sup>15</sup> John Myers Myers, *San Francisco's Reign of Terror* (New York, NY: Doubleday, 1966), 45.

Of course, it should be noted that neither the local government nor the Committee were static organisations, and as such their relationship was not fixed either. Even early on, the vigilantes at points operated with a somewhat amicable relationship with legitimate law enforcement: Sheriff Hays wrote to the Committee asking for their financial assistance with the construction of the county jail in July 1851, something they complied with.<sup>16</sup> That said, the two bodies' relationship when it came to cases and criminals was frosty. That animosity would boil over in landmark cases, such as that of the Sydney Ducks: "it was the duty of the Police to rescue prisoners from the Vigilance Committee."<sup>17</sup> The capture of James Stuart by the Committee prompted the Supreme Court to demand that he was handed over. When the vigilantes proved uncooperative, searches of the Committee premises, followed by sworn affidavits by the highest-ranking members led the judiciary to believe that, for the time being at least, Stuart was not in Committee custody as the word about town had suggested (a lie, as we will see later in this chapter).<sup>18</sup> Of course, this anecdote comes from a time when the Committee operated at the zenith of their popularity and power. By November, that disregard for the law and its agents was replaced by hundreds of vigilantes answering the mayor's call for help: the Committee, along with other "law-abiding citizens... assembled and dispersed a mob" of sailors and longshoremen determined to lynch their superior officer, Captain Waterman, for his "brutal" conduct on their voyage to the bay.<sup>19</sup> The ironic twist of the Committee both suppressing popular mob action, and doing so on the local authority's orders, however, was an exception in Williams' opinion – who characterised it as a "reversal of the usual relations" between the two, without necessarily explaining what might have caused it.<sup>20</sup> In reality, the Committee of November 1851 was a shell of the confident, brash organization

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<sup>16</sup> Williams, *Papers*, 162.

<sup>17</sup> Williams, *Papers*, 129.

<sup>18</sup> Williams, *History of the San Francisco Committee*, 264-265.

<sup>19</sup> Williams, *History of the San Francisco Committee*, 344.

<sup>20</sup> Williams, *History of the San Francisco Committee*, 343.

of June, July and August of that year. As an organisation whose viability was simultaneously predicated on extensive public support *and* the indifference or ineptitude of the authorities towards their existence, moments like the Waterman incident were less an exception than they were indicative of a new normal; a product of the Committee's sharp decline in effectiveness and popularity in the public consciousness. As this chapter and the final chapter will explain, the Committee went out with less of a bang than a whimper, a once fierce rivalry with the local authorities neutered as their own flaws were laid bare.

The Executive Committee was composed of a relatively consistent membership during the vigilantes' heyday. Though they were not motivated by the same anti-abolitionist trend Leonard Richards observed in Jacksonian America, the Committee's highest-ranking members were the same kind of "gentlemen of property and standing" that dominated private power in decades prior: the steering core was typically composed of wealthy, influential men, many of whom were merchants.<sup>21</sup> According to Waldrep, Bancroft found that the legitimacy of the Committee itself was predicated on both its public support *and* the presence of local, notable citizens in its ranks. With the vigilantes' highest ranks being peppered with men of significant local standing and wealth, Bancroft argued that this was as important to their exercise of vigilante justice as mass public support for it was.<sup>22</sup> Though information is scant in places, particularly regarding the rank-and-file membership of the General Committee, the upper echelon of the organisation was dominated by larger-than-life figures such as Samuel Brannan, supposedly California's first millionaire and newspaper proprietor. Before the city was incorporated under territorial law, Brannan had also previously served as a councilman in the city between August 1849 and May of the following year, as did A.J. Ellis around the

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<sup>21</sup> Leonard L. Richards, *Gentlemen of Property and Standing: Anti-Abolition Mobs in Jacksonian America* (New York, NY: Oxford University Press), 136-138.

<sup>22</sup> Christopher Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America* (New York, NY: Palgrave MacMillan, 2002), 95.

same time.<sup>23</sup> Others came from money, leaving their wealthy Eastern families in search of a fortune in gold. The ever-present secretary, Isaac Bluxome Jr., who was a descendant of New Jersey manufacturing titan John De Camp, left for San Francisco and, “within a month after his arrival... commenced his business as a general merchant,” in the words of one chronicler.<sup>24</sup> The Woodworth brothers, Selim and Frederick, arrived in San Francisco as members of the prolific Michigan political clan which claimed descentance from settler Walter Woodworth. Selim began a political career just before his time in the Committee on the state legislature, sitting for Monterey into the mid-1850s at least.<sup>25</sup> Both of them monopolized property and lighterage of the port of San Francisco, representing the brothers’ primary – and considerable – source of income.<sup>26</sup>

Other members can be connected to a monied class in the city, usually having moved from the Eastern United States. Stephen Payran’s career as an attorney in Pennsylvania ended with the promise of the goldfields out West: he traveled across the plains with a law degree in hand.<sup>27</sup> Indeed, Williams noted that many Committee names appeared in an 1851 list of wealthy Californians: J.B. Huie, C.H. Brinley, and Alfred J. Ellis, along with the other members discussed in this section, were consistent members of the EC who were also of notable wealth (Felix Argenti, a banker, whose infamous exploits will be discussed later in this chapter, was the richest of them all).<sup>28</sup> The class of the membership has been a bone of contention for a handful of scholars particularly when trying to understand their motivations:

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<sup>23</sup> John Whipple Dwinelle, *The Colonial History of the City of San Francisco* (San Francisco, CA: Towne & Bacon, 1866), 112.

<sup>24</sup> Alonzo Phelps, *Contemporary Biography of California's Representative Men, with Contributions from Distinguished Scholars and Scientists* (San Francisco, CA: A.L. Bancroft and Company, 1881), 271.

<sup>25</sup> California State Senate, *Journal of the Seventh Session of the Senate of the State of California* (Sacramento, CA: James Allen, State Printer, 1856), 654, 755.

<sup>26</sup> Williams, *History of the San Francisco Committee*, 193.

<sup>27</sup> Frederick Watts and Henry J. Sergeant, *Reports of Cases Adjudged in the Supreme Court of Pennsylvania, Volume IX* (Philadelphia, PA: Kay & Brother, 1855), 154-156. This record actually indicates Payran being sued for a rather unscrupulous approach to certain fees he charged at his law practice in a suit brought in 1838.

<sup>28</sup> Williams, *History of the San Francisco Committee*, 188, note 3.

Senkewicz, for example, posited that the Committee may have been borne of the members' financial worries, with concerns around crime being a "makeshift explanation" to justify their seizure of power.<sup>29</sup> Merchants or not, a fair assessment is that the highest ranking – and most influential – members of the Vigilance Committee were at least wealthy. Others could count themselves as some of the richest men in the fledgling state of California, and certainly San Francisco. While hundreds of lesser wealth counted themselves among the Committee's general membership, the organisation was formed and directed by men of considerable money and influence. This upper-class activism is critical to the way the Committee responded to certain crimes, as well as their public, during their reign over the city.

In establishing a brief timeline of the Committee's exploits, the assertions of George Stewart and others in establishing how long the vigilantes presided over San Franciscan justice are a useful starting point. Though the Committee met well into 1853, a period of roughly three months has been given as the Committee's length of effective tenure.<sup>30</sup> Stewart based his entire retelling of the Committee's rise on a period of one hundred days, something that has stuck as other scholars have gone on to investigate the topic.<sup>31</sup> Between that fateful June and early October, the main achievement attributed to the Committee was its investigation into gang of Australian miners, one that led to the capture and hanging of its most prolific offender, 'English' Jim Stuart.<sup>32</sup> Beyond that, the vigilantes rounded up a handful of the gang's other members thought to be in league with Stuart. Irrespective of how

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<sup>29</sup> Robert M. Senkewicz, *Vigilantes in Gold Rush San Francisco* (Stanford, CA: Stanford University Press, 1985), 76-77, 82; Ethington, *Public City*, 91.

<sup>30</sup> Ethington, *Public City*, 88; Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (London, UK: Palgrave MacMillan, 2005), 13.

<sup>31</sup> George R. Stewart, *Committee of Vigilance: Revolution in San Francisco, 1851: An Account of the Hundred Days when Certain Citizens Undertook the Suppression of the Criminal Activities of the Sydney Ducks* (Boston, MA: Houghton-Mifflin, 1964).

<sup>32</sup> As with many names and titles that were recorded by the Committee, Jim Stuart's name is spelled and presented a handful of different ways, with Stewart, Stuart and Steward all being attributed to the same man. No evidence suggests that there were multiple Stuarts known to the Committee. Thus, for consistency, this study will always refer to him as Jim Stuart, irrespective of the spelling used in each specific entry. Additionally, entries concerning Stuart are further complicated by the fact he had multiple aliases, including William Stephens. Any use of a given alias will be signalled as still being the same Jim Stuart.

the Committee has been characterised by academics, these particular captures have been featured at the core of the vigilantes' narrative. Naturally, the hangings attributed to the Committee have also figured prominently in even the broadest overviews of their history. According to Mullen, all four of those hangings were men who had come from Australia and were convicted – or, at least, the Committee's assertion of conviction – members of the same violent gang.<sup>33</sup> These punishments, along with the much longer list of criminals banished or lashed, all came in the Committee's earliest months in power, the months least removed from the tacit verbal consent of the citizenry that June. Had the Committee kept up the rate of catching, trying and punishing criminals they had started their tenure with indefinitely, this might well have been a very different study of a very different organisation. Alas, the wheels did indeed fall off by October, and the bare bones of the Committee that met into 1853 was simply no longer relevant. Before 1851 was even seen out, daily meetings had become weekly, "with an average attendance of sixteen" between September 1851 and March 1852 according to Williams, a far cry from the thousands that supposedly signed their name at the bottom of the constitution mere months earlier.<sup>34</sup> All of this makes the title of Stewart's study much more understandable: whether or not the Committee kept on meeting past a certain point, the only time those meetings led to any noticeable results or consequences was the first one hundred days they actually met.

The question is perhaps not why the wheels fell off at the end of that period, but how well they were screwed on to start with. The received wisdom regarding the 1851 Committee, as understood by Bancroft, Williams and Stewart, is that the Committee achieved the aim they organised for in the first place. Stewart's subtitle, *An Account of the Hundred Days when Certain Citizens Undertook the Suppression of the Criminal Activities of the Sydney Ducks*,

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<sup>33</sup> Kevin Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (London, UK: Palgrave-MacMillan, 2005), 13.

<sup>34</sup> Williams, *History*, 340.

told all: the Ducks were the problem, and the Committee took care of it. The story past this one hundred days was not worth telling, the equivalent of the vigilantes riding off into the sunset of a job well done. In reality, Stewart's title does not quite tell the full story. The Committee never stated an aim to solely root out and neutralize a single gang. Their ideas were far grander, stretching past just one organised band of ruffians, as evidenced in their own documents. Their investigations and attentions were spread all over San Francisco, ranging from breaking up prostitution rings and curbing arson to patrolling the bay for boats carrying contraband.<sup>35</sup> Thus, this section seeks to establish what the successes, failures of the Committee were relative to its *actual* stated goals, not those attributed to the vigilantes after the fact by a scholar. After all, even with his praise of the Committee's motivations, Bancroft ceded that "the institution was known only by its results."<sup>36</sup>

That June, the Committee of Vigilance set out, and published, their primary goals as an organisation: to curb incendiarism, robbery, and homicide, as well as more firmly punishing those who were accused and convicted of those crimes: "no thief, burglar, [or] incendiary assassin shall escape punishment either by the quibbles of the law."<sup>37</sup> It seems prudent to deal with each of these areas one at a time. The pressing desire to root out incendiaries and arsonists can be seen in one of the Committee's earliest meetings, through the case of Benjamin Robinson. Multiple witnesses confirmed a fire had broken out on Pacific Street on 22 June 1851, with suspicion being laid at the door of the Robinson household and, more specifically, their black lodger, Ben.<sup>38</sup> Based on the volume of relevant testimony, the Committee was taking any and all suggestions of intentionally set fires extremely seriously, and with good reason – fires had been devastating to the fledgling city in

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<sup>35</sup> Williams, *Papers*, 31, 106, 165.

<sup>36</sup> Bancroft, *Popular Tribunals*, 214.

<sup>37</sup> Williams, *Papers*, 1.

<sup>38</sup> Williams, *Papers*, 117.

the preceding 12 months. Indicative of the vigilantes' commitment to maintaining a purported standard of justice, they took lengthy statements from relevant parties, including suspects, allowing time for cross-examination. The time between the case being introduced to the executive to a judgement being passed was two weeks – much quicker than regular, legal justice channels, but not so fast as to suggest the Committee intended to summarily punish anyone remotely connected to any possible arsons in San Francisco. However, none of this makes the case's course – and, most importantly, outcome – any easier to understand. Initially – without any obvious reason, beyond perhaps simple prejudice – “Negro Ben” was suspected of setting a small fire, with his landlords, Mr. and Mrs. Robinson, completely oblivious.<sup>39</sup> He admitted to the crime immediately in his first statement, though maintained he was threatened into the action by Mrs. Robinson, who “told him if he didn't do it that she would split his head open – and laid hold of an ax.”<sup>40</sup> The plot further thickened when William Robinson suggested his wife had always been a source of fear for Ben.<sup>41</sup> Over the following two weeks, a steady trickle of witnesses came forward suggesting it was Mrs. Robinson who was to blame for the fire, and a man representing Ben named Victor De Gray even petitioned the Committee for compensation for his client's “detention and disgrace.”<sup>42</sup> By 12 July 1851, a decision was reached: the EC reported that “[Ben] was induced by fear and bribery to confess that his mistress had induced and ordered him to set fire to the building in Pacific Street,” an understandable conclusion drawn from a considerable list of witnesses attesting to both Robinson's guilt and Ben's good character. Regardless, the secretary's annotation contained a puzzling sentence: “both discharged.”<sup>43</sup> After two weeks of concerted effort to get to the bottom of the case, the Committee dismissed two key suspects, including

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<sup>39</sup> Williams, *Papers*, 116.

<sup>40</sup> Williams, *Papers*, 115.

<sup>41</sup> Williams, *Papers*, 118.

<sup>42</sup> Williams, *Papers*, 204, 268.

<sup>43</sup> Williams, *Papers*, 267.

one they asserted was guilty, without any further ramification or mention in their records again. Baffling or not, the Robinson case poses a serious problem in discussing the Committee's execution relative to their aspirations. The vigilantes were sufficiently angered by incendiarism to investigate leads, yet they did not follow through in a case where, by their own admission, they had found the guilty party.

The case of the Pacific Street fire was one of the most prominently featured cases in the Committee's papers, with few others directly relating to finding out, in cases of fire, who had set it. However, during larger fires – including that of 22 June – the Committee was very concerned by the prevalence of resulting larceny and thievery. The fire, according to Williams, “prompted multiple pre-emptive arrests around the North side of Pacific Street.”<sup>44</sup> All but one of the arrestees was discharged, with the only guilty man, Justo Reyes, being found guilty of stealing clothes and sentenced to “two dozen lashes and... ordered to quit the city.”<sup>45</sup> The rest, in statements they gave to the Committee – and occasionally by admission of the arresting party – all had little knowledge of what they had been brought in for. Peter Davis, brought before the Committee simply for being in the vicinity of the fire was discharged after those who arrested him “attested that they had no good grounds” for bringing him in in the first place.<sup>46</sup> James Smith, arrested on suspicion of stealing a watch, simply stated that he was unaware of any watch, or a man who had lost one. The outcome was the same as Davis’: “discharged.”<sup>47</sup> While these arrests might be indicative of punitive exertion of their self-appointed power, the quick and apologetic discharges on the Committee's part speak to their goal of not only punishing criminals more consistently, but also preventing criminality from occurring in the first place. Additionally, with the investigation beginning as

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<sup>44</sup> Williams, *Papers*, 74, note 1.

<sup>45</sup> Williams, *Papers*, 76.

<sup>46</sup> Williams, *Papers*, 74.

<sup>47</sup> Williams, *Papers*, 77.

the fire still raged through Pacific Street, the vigilantes showed a commitment to garnering as much useful information as possible on suspects, starting by questioning as many bystanders as possible.

In general, fires – particularly fires thought to be of an incendiary origin – are relatively uncommon in the Committee’s records. However, threats or rumours of intentional fires were rife, and always logged and taken seriously by the vigilantes. Testimony by Samuel L. Dewey a mere two days after the 22 June fire asserted that the Ducks – or at least, some of its members – “were out concocting their plans for a combined attempt to burn the whole city.”<sup>48</sup> A week earlier, a Mrs. Fawcett expressed her concern over desperate Sydney men who had “arranged to burn and plunder the town the moment they got ashore.”<sup>49</sup> Neither Fawcett nor Dewey’s testimony came with any concrete evidence, nor did anything particularly substantial come of their assertions. However, it was logged and kept by the Committee, reflective of their firm desire to combat incendiaries and fire more generally. Even an inkling of a lead was better than nothing at all, and the Committee was glad of the smallest intelligences – especially those that implicated the Australian gang they were convinced was behind so much of the criminal ill in San Francisco. It is clear that concerted and laudable effort went into preventing arson. Whether the same can be said for punishment of it is an issue greatly complicated by the Committee’s inexplicable handling of the investigation into the Robinson household on Pacific Street.

Beyond the affirmed commitment to dealing with arson, the Committee of Vigilance took issue with thieves and burglars in their constitution, a goal that, compared to incendiarism, was extremely vague. Thieves and burglars covered the vast majority of cases found in the Committee’s papers, including the most prolific and famous cases they

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<sup>48</sup> Williams, *Papers*, 84.

<sup>49</sup> Williams, *Papers*, 29-30.

investigated. Every capital punishment the Committee carried out at the minimum included charges of thievery, larceny or burglary for the accused.<sup>50</sup> It seems fair to suggest that the Committee was mostly interested in curbing property crime in general, but most particularly that which resulted in the injury or death of innocent bystanders. Like incendiary affairs, the vigilantes' commitment to stamping out violent crime is evident in their papers. One of the Committee's earliest ordinances was the creation and upkeep of a Night's Watch, specifically "detailed squads of men in twos and threes to watch various suspicious places some supposed and others known to be cribs for [Sydney] men."<sup>51</sup> As early as 16 June, the vigilantes were investigating the Sydney Ducks, the collective at the heart of San Francisco's dark criminal underworld – or, at least, the Committee's conception of it. Like their approach to combatting incendiaries, pre-emptive effort was a key facet of the vigilantes' action on thievery. As well as noting suspicious individuals, members often submitted descriptions of areas where an increased Committee presence might be useful – for example, a hidden section "South of Stockton St to reach which you must pass down a ladder between the two large store houses," the reporter adding it seemed a "fit resort for rascals as nothing can be seen except from the water side, & I should strongly recommend a vigilant eye upon the police in that quarter."<sup>52</sup> Mapping criminal San Francisco was as important as identifying the prime movers within it. Initially, "reports... confirm[ed] previous suspicions but detected nothing in particular," but steady, concerted observation of suspects, in conjunction with an open-door policy to citizens with information and intelligences, yielded a more concrete picture of the Ducks' operations for the vigilantes to work with.<sup>53</sup>

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<sup>50</sup> Williams, *Papers*, 232. In addition to Jenkins' execution for larceny, Stuart, Whittaker and McKenzie were all hung on the grounds of an armed robbery, though the vigilantes asserted their collective rap-sheet was much longer.

<sup>51</sup> Williams, *Papers*, 29.

<sup>52</sup> Williams, *Papers*, 37.

<sup>53</sup> Williams, *Papers*, 29.

Among the first cases in the Committee's papers concerned Hetherington and Burns, men accused of keeping "cribs" or "the resort of felons and burglars."<sup>54</sup> This was reflective of the vigilantes' seeming strategy of flushing out rogues by cutting off their main places of refuge. Despite protest from Burns, the two were given until Friday 20 June – just two days – to pack up and quit the city with their families in tow if they had them. Burns' plea to give testimony was granted, with the Committee's police chief, JL Van Bokkelen, "authorized to assure Burns that he shall go free and unmolested" after he had given his testimony.<sup>55</sup> This case involved more than its fair share of intrigue: the two defendants were not accused of any specific, effectively prosecutable offence, and the Committee was extremely lenient in not jailing or even arresting them. Tellingly, a stricken resolution from this entry called for a statement on the matter:

An address to our fellow citizens [should] be prepared for publication in the morning papers setting forth all the proceedings against said Burns—and the fact that he had been unable to vindicate himself—and that the Committee would proceed at 10 O'clk [sic] on the morning of Friday next, to expel him from among the community; calling upon all good citizens for their cooperation in case of an organized resistance on the part of the confederates of said Burns...<sup>56</sup>

The curious circumstances of the case, in conjunction with the obvious concern of garnering public support and "approval of our fellow citizens," are indicative of a Committee pursuing a grander strategy in fighting the Ducks.<sup>57</sup> Without the constraints of the law and due process,

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<sup>54</sup> Williams, *Papers*, 43. As with Stuart, Burns and Hetherington's names are spelled different names throughout the Committee's papers, including in this same document. It is evident that Byrnes and Herrington are the same two men as mentioned in the title, so the first spelling will be used. Whoever wrote up Committee minutes seemed to struggle with names: the vigilantes' own police chief, JL Van Bokkelen, is also frequently spelled Van Bokelin in this report.

<sup>55</sup> Williams, *Papers*, 44.

<sup>56</sup> Williams, *Papers*, 44-45. This passage, appearing in brackets in Williams' transcription, is crossed out and mutilated in the original documents. Williams confirms that no statement appeared in any newspaper regarding this case.

<sup>57</sup> Williams, *Papers*, 44.

the vigilantes could use sweeping extralegal action like this to get closer to achieving their far more idealistic goals. Flushing the gang out of doors by breaking up their networks of shelter and protection was a step toward curbing criminal activity, and the price – questionably justified banishment of certain citizens and their families – was one seemingly worth paying. Actions and records like the case of Burns and Hetherington highlight two key facets of the early Committee: a strategic approach to their central investigations, and a relative comfort in acting however they deemed necessary to achieve their goals. Though public support was crucial to their continued authority, the vigilantes' earliest resolutions and actions suggest their confidence in public support, reinforced by their seldom found need to explain or justify their more curious decisions.

Much has been made here of the Committee's process in identifying and bringing down the tapestry of rogues they wished to purge from the city, but that firmest of assertions by Bancroft rears its head once again: understanding the results and outcomes of the Committee's actions is inarguably the most important way to judge their success – and failure. However many steps ahead the vigilantes were thinking when banishing Burns and Hetherington, mapping the criminal underworld or funding a Night's Watch, none of these things are of import – or worthy of praise – if they led to no tangible progress in the Committee's heady goals of a safer San Francisco. In judging that success, attention must focus primarily on the Sydney Ducks, the perennial pantomime villain in the vigilantes' story, given how much of the Committee's investigative effort was focused on breaking up the gang.

Understanding the hierarchy and general operation of the Ducks – occasionally also referred to as the Coves, and occasionally just 'the Sydney Gang' – is much more difficult than with the Committee, largely because of their status as a clandestine, criminal organisation. What is known about the gang extends to names of key individuals and prime

movers, and occasionally their origins. The vigilantes' knowledge of the Ducks' inner workings was largely furnished by the confession of Jim Stuart, but a handful of names and associated criminal activities had floated around San Francisco – and through the meeting hall of the Committee – for months before. Williams noted that Stuart's confession, dated 8 July 1851, was as much an almanac of the Ducks as it was his death-warrant: "Stuart named twenty-six accomplices," an eye-watering number of leads for the Committee to chase down in the subsequent months.<sup>58</sup> Stuart was commonly positioned as the Ducks' leader by Committee men, himself and, after the fact, scholars. He was backed by a close-knit leadership group – not dissimilar to the vigilantes' own EC – and a much broader, messier network of gang members, civilian sympathisers and allies. Other names most closely associated with the gang included Sam Whittaker, allegedly Stuart's closest confidant and right-hand man, Bob McKenzie, as well as Mr. and Mrs. Hogan, owners of a lodging house where the Ducks frequently laid low. Though messily and complexly structured, a traceable hierarchy was visible, and the Committee's intent to cut off the head of the snake was reflected in how they divided their resources to bring the gang down.

The capture, confession and execution of Jim Stuart exists among the Committee's most famous exploits – and was the event that, finally, showed some tangible progress towards their goals. It is all the more curious, then, when one considers that Stuart was caught by coincidence, leaving the scene of a crime that, ironically, was one of few in the city's recent history that he actually had not committed. Irrespective of how he was apprehended, the vigilantes found themselves with their most wanted man – the leader of the Sydney Ducks – sat in manacles at their headquarters. As results go, capturing and extracting a usable confession from Stuart was an excellent return for the Committee's efforts the previous months. The vigilantes made a tactically laudable deal with Stuart: rather than executing him

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<sup>58</sup> Williams, *Papers*, 225, note 12.

in haste, they reached an agreement with Stuart that would involve him being handed over to the legitimate authorities rather than being executed by the vigilantes – presumably a better fate. Dated the same day as his confession, the Committee recorded that:

The prisoner Stuart will implicate and *convict* at least ten persons and make a full confession of all the details and of all knowledge of the various scoundrels now in this country upon this condition that he be handed over to the authorities of the County wherein he is charged with committing the crime of murder and so forth and that he will remain in our custody until he does this, and if he fails to convict at least ten persons he will remain under our control as he now is. [Signature of Stuart under his then alias of choice, William Stephens.].<sup>59</sup>

With Stuart's consent in the form of a signature, the Committee was able to ensure they got more from the capture of the gang leader than they might have had they simply executed him, and with minimal risk for their own work. The relatively vague terms of the deal favoured the Committee in terms of being able to extract information from Stuart without necessarily having to turn him over to the authorities. Judging what constituted a "full confession" was solely the Committee's prerogative, again benefitting from their skirting of codified laws and their self-appointed total authority. In the worst case, Stuart gave them little in the way of useful information and could be executed to the cheers and delight of the citizenry. In the best case, Stuart would detail the names and whereabouts of the Ducks' other prime movers, and the Committee of Vigilance could consider the breaking up of this violent gang a huge step in their overarching aim of cleaning up San Francisco. The Committee was keen to guard against the perception they were being lenient towards Stuart in not immediately executing him, much as they had previously felt the need to justify their banishment of Burns and

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<sup>59</sup> Williams, *Papers*, 223-224.

Hetherington to the public. Regarding the Stuart case, they reassured their supposedly baying public that “we do not desire to screen anyone from punishment,” highlighting their intent to execute Stuart either way.<sup>60</sup>

A mere three days after Stuart’s confession, the Committee sent for a clergyman to read the scoundrel his last rites. The Committee’s resolution to hang Stuart was unanimous, as was their judgement that the contract they had entered into with him had not been performed.<sup>61</sup> Detail in the vigilantes’ usually diligent notes is absent here, making it difficult to say for certain what part or parts of the contract were not carried out in the manner the Committee wished. One can infer from Stuart’s confession a handful of potential reasons, though none can be asserted as truth. For example, the vigilantes necessitated from Stuart a “full confession,” but a number of crimes he was accused of – most notably the murder of Charles Moore at Foster’s Bar the previous autumn – are conspicuously absent.<sup>62</sup>

Technicality or not, his statement not constituting a complete admission of guilt might well have been enough for the vigilantes to make their decision. Still, once again, the notion of results has to be considered. Irrespective of reasoned justifications for the terms of Stuart’s contract not being met, it seems fair to suggest that the deciding factor in Stuart’s execution was the need to demonstrate the Committee’s control, authority and, above all, capability.

They had extracted more than 20 names of potential accomplices and confederates from the Ducks’ leader, many of which would take considerable time to verify and investigate, time they would have to justify to the public – and, their own membership – keeping one of the most feared criminals in California fed, sheltered, and above all, alive. None of this seeks to

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<sup>60</sup> Williams, *Papers*, 225.

<sup>61</sup> Williams, *Papers*, 263.

<sup>62</sup> Williams, *Papers*, 137, note 4. Stuart’s implication in the murder of Charles Moore on 7 October 1850 was one of the first crimes he was arrested for. Stuart was also being hunted down by the Marysville Committee as well as the San Francisco Committee.

excuse, justify or explain what was, simply put, the unlawful killing of a man without a proper trial, nor is the intent of any part of this chapter to pass a moral judgement.

Keeping results in mind, Stuart proved to be the catalyst for every subsequent major capture on the Committee's part, as Williams succinctly detailed:

Stuart named twenty-six accomplices. Eleven of these received little or no further attention from the Committee [...]. Seven [...] were pursued in vain, but all except Big Brummy evidently left the state in fear of the consequences of this disclosure. One woman and seven men were apprehended (Mrs. Hogan, Dab, Jimmy from Town, Whittaker, Adams, McKenzie, Michael Hogan, and Quick). Of these, Whittaker and McKenzie were hung, Quick was banished, and Adams and Jimmy from Town were turned over to the authorities. Other criminals were traced through the statements of these prisoners, and the Stuart gang was thus effectually broken up.<sup>63</sup>

Williams' break-down of the direct outcomes of Stuart's confession brings clarity to a muddled and confusing piece of testimony, and, based on her interpretation, highlights the early successes of the Committee as well as the centrality of the confession in bringing about that success. To be sure, Stuart's confession was the beginning of the end for the Ducks. Once the vigilantes established more clearly how these men and women were connected on a daily basis, they were able to round up, try and punish the gang's remnants with relative efficiency. Robert McKenzie was arrested in Sacramento in late July before being executed a month later, confessing to, as well as his general association with the Ducks, his part in the stealing of a horse.<sup>64</sup> With similar vagueness, Samuel Whittaker was sentenced to death on the grounds of "being guilty of diverse offences, whereby the safety of lives and property

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<sup>63</sup> Williams, *Papers*, 225, note 12.

<sup>64</sup> Williams, *Papers*, 467.

have been endangered,” the focus of his confession being the robbing of a Mr. Jansen.<sup>65</sup>

Regardless of the crimes they were convicted of for the purposes of sentencing, the vigilantes were confident they had rid San Francisco of the Sydney gang’s steering core.

Beyond those executions, the Committee also banished more minor offenders, particularly those who were less well known by the vigilantes and indeed the public at large. Though the order to arrest Mary Ann Hogan (usually just ‘Mrs. Hogan’ in the Committee records) came as soon as she was implicated by Stuart, her earliest testimony was not even recorded, with Executive Committee member Stephen Payran asserting that she “elicited nothing important, and has deferred her examination.”<sup>66</sup> With the biggest fish caught, the vigilantes seemed almost uninterested in these bit-part criminals: Mrs. Hogan’s escape attempts did not result in much firm punishment, with the Committee instead being freed on the understanding she left the country. “We may be done with her as a witness” the EC resolved, even though they had seized her as she attempted to board a ship away from California on the basis she was a valuable witness.<sup>67</sup> Tom Quick, another accomplice Stuart identified, was convicted of robbing a jeweller’s and left the country at his own expense.<sup>68</sup> Records for the pair handed over to the authorities – Jimmy from Town and Adams – are less easily procured. Williams’ detailed footnotes assert that despite the confession of Jimmy from Town – born James Burns – the Committee willingly delivered him to the authorities for him to stand trial on a different charge.<sup>69</sup> These punishments, judged through the lens of successes for the Committee, seem incredibly lenient when compared to the public execution of Whittaker and McKenzie. Without advocating hanging or execution, it seems the vigilantes’ bark was worse than their bite when it came to actually sentencing the less well-

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<sup>65</sup> Williams, *Papers*, 467-477.

<sup>66</sup> Williams, *Papers*, 258.

<sup>67</sup> Williams, *Papers*, 234, note 30; 501.

<sup>68</sup> Williams, *Papers*, 37, 237.

<sup>69</sup> Williams, *Papers*, 228, note 17.

known gang members. Still, perhaps exile was punishment enough for the vigilantes: they were, after all, only the Committee of Vigilance for the protection of the citizens and residents of the City of *San Francisco*, and as long as these rogues were not in the city limits, they were not a problem the Committee was interested in solving.

Executions sanctioned by the Committee have been, perhaps understandably, the primary focus of scholars in assessing the vigilantes' place in history. Ethington summarised the Committee's *modus operandi* as "executing four men... defying writs of habeas corpus, policing the city, investigating disreputable boarding houses, boarding and inspecting vessels, deporting immigrants, and training and parading its militia."<sup>70</sup> Mullen, too, in an otherwise statistic-heavy chapter, noted the hanging of "four criminal miscreants" but not how many they banished or lashed.<sup>71</sup> The relative disinterest towards the Committee's figures for punishments other than hanging, and indeed their rate of acquittal, is perhaps borne of the early texts on the vigilantes' work prioritising those particular exploits. In effort to present a mostly positive interpretation, Williams and Bancroft gravitated towards the executions since they are perhaps the most difficult aspects of the Committee's legacy to justify. Describing those events by detailing the unpleasant nature of the criminals who were hanged might negate any perceived brutality on the vigilantes' part. Conversely, a negative perception of the hangings – such as the one espoused by Ellison – might indicate that the rest of their actions were similarly nefarious.<sup>72</sup> Though the majority of modern scholars are not sucked into debating Bancroft and Williams on their moral terms, discussion of the bulk of the Committee's work as an investigative and judicial body is usually set aside. However, these executions of high-ranking rogues pale in *quantitative* importance compared to the number of

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<sup>70</sup> Ethington, *Public City*, 88.

<sup>71</sup> Mullen, *Dangerous Strangers*, 13.

<sup>72</sup> William H. Ellison, *A Self-Governing Dominion: California, 1849-1860* (Berkeley, CA: University of California Press, 1950), 194, note 1.

other cases the Committee worked on, and a number of those were mishandled or botched entirely. This is not to suggest that the four executions were unimportant, but rather that, on a case-by-case basis, they represent only a fraction of the Committee's patchy output. Though the break-up of the Sydney Ducks was assuredly a success in terms of the Committee's self-defined goals, and their executions an eye-catching component of any summary of their time in power, the next section will highlight how this specific case is *overvalued* by scholars in a story otherwise marked by corruption, incompetency and general ineffectuality.

Where more modern scholarship has retold and commented upon the vigilantes' most (in)famous exploits, it has often ignored the day-to-day occurrences that actually characterised the bulk of the Committee's time in existence. The general absence of a number of missteps, blunders and genuine malfeasances in a handful of important retellings misrepresents the reality of the Committee's daily operations. Within mere weeks of the Committee's official formation, the innocuous start of what would become the vigilantes' most public embarrassment came in the form of a report from Committee member Felix Argenti, regarding one Peter Metcalf.<sup>73</sup> The routine report, one detailing a complaint of Metcalf effectively haven stolen "several bundles of wearing apparel," came allegedly "substantiated by several witnesses." Within roughly a week, the Committee found itself calling a special meeting to discuss the legal action Metcalf had taken against Argenti and a handful of others.<sup>74</sup> In the period between these two events, the Committee had searched – apparently rather bullishly – Metcalf's abode for the stolen bundles, to the damage of Metcalf's property. How *publicly* embarrassing these initial developments were is hard to say, but a telling note was published at the Committee's behest in San Francisco's newspapers:

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<sup>73</sup> Williams, *Papers*, 78-79.

<sup>74</sup> Williams, *Papers*, 155-156.

It having become necessary to the peace and quiet of this community that all criminals and abettors in crime should be driven from among us, no good citizen having the welfare of San Francisco at heart, will deny the Committee of Vigilance as such information will enable them to carry out the above object --- nor will they interfere with said Committee when they may deem it best, to search any premises for suspicious characters or stole property – therefore – we the Vigilance Committee do claim to ourselves the right to enter any person or persons premises – where we have good reason to believe that we shall find evidence – to substantiate and carry out the object of this body – and further deeming ourselves – engaged in a good and just purpose -- WE INTEND TO MAINTAIN IT.<sup>75</sup>

Nothing in this public release, dated 5 July, referenced any of the vigilantes' cases or investigations specifically, but its publication mere days after a citizen brought charges against a handful of Committee members for supposed actions undertaken in the Committee's name is far beyond coincidental. Earlier in the same meeting, the EC had resolved to have a small group "wait on Mr. Metcalf, and Mess. Lockwood, Tilford and Randolph acting as council for the prosecution," with a clear intent on what that 'waiting on' would entail: compelling the attorneys to "withdraw the suit, and decline further proceedings in the matter touching this case."<sup>76</sup> Barely a month into their tenure in power, the Committee had a potentially damaging civil suit to fear, one that prompted them to double-down on their own assertions of absolute authority. Though the published release is similar to their formative documents in terms of responsibilities claimed, the tone suggests a Committee more brazen and forthright in communicating the powers it wielded to San Franciscans. The same vagueness the Committee would go on to employ in their contract with Stuart is present here:

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<sup>75</sup> Williams, *Papers*, 178.

<sup>76</sup> Williams, *Papers*, 177.

vigilantes could justify entering private premises with a rationale as flimsy as “where [they] have good reason to.” Worse still, this right was to be exercised without “interference” – another ill-defined term here – of the very public the vigilantes drew their *de facto* legitimacy from. The days of asking the public if action met their approval just a month prior seemed some distance from the warning the communiqué ended with: on their right to enter property, the Committee asserted “WE INTEND TO MAINTAIN IT,” printed in all capital letters, an alarming and forthright way to close only the second written address the vigilantes made to their public. In short, it took only a month for the Committee to fear their authority was threatened, leading to this concerning extension of both their power and their wish to use it arbitrarily.

Naturally, the case against Felix Argenti did not grind to a halt with a warning press release and some intimidation of the prosecution’s legal counsel.<sup>77</sup> By November, Stephen Payran, the EC’s acclaimed president after the departure of Samuel Brannan, resigned from his post – and the Committee more broadly – citing the shame he felt regarding the handling of the Argenti situation, and the disgrace the drawn-out legal proceedings had brought upon the Committee:

From the time of our creation up to the present time, I have not caused the Committee to be put to any expense attending matters in which I have engaged, but invariably sought to save and to secure us from danger in regard to our finances, and you may rest assured gentlemen that in the case of Metcalf vs Argenti should I be implicated, that the Committee shall not be subjected to any costs on my account, but I do complain bitterly that with so much wisdom in our assembly we should betray such want of

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<sup>77</sup> Williams, *Papers*, 210. Metcalf’s representatives received “with astonishment” news of the Vigilantes’ intent to shut the case down, and were defiant in that they “would submit to no dictation from the Vigilance Committee... they may rest fully assured that we will prosecute the suit.”

foresight, we are by our course allowing a combination to form against us, which is calculated to do us much harm.<sup>78</sup>

Payran's bitterness most likely stemmed from the huge sums of money the vigilantes had paid out in fighting the case against Argenti. Throughout the period where the case was ongoing, members of the General Committee regularly offered substantial sums of money to maintain Argenti's defence, with one A.P. Sheldon – member number 411 – “ready to subscribe \$500.”<sup>79</sup> However many members contributed, the Committee consistently found itself “in want of funds to maintain the suit,” a process that was still ongoing by the time Payran resigned. At the time of his departure, the Committee were liable for \$2500 in costs relating to the case, a figure that did not account for the potential outcome of the court finding in the plaintiff's favour.<sup>80</sup>

Moving from San Francisco's Superior Court to the District Court of Santa Clara, the legal action rumbled on.<sup>81</sup> Metcalf was eventually awarded “nominal damages” according to Williams, a defeat made even more devastating due to the “heavy expenses involved in the conduct of the suit.”<sup>82</sup> According to one of Metcalf's representatives, R.A. Lockwood (one of the men the Committee intended to ‘wait on’), the outcome could have been significantly worse than the two hundred dollars the plaintiff was awarded. Suggested damages were initially only as low as one thousand dollars, and as high as fifty thousand. “They were most strangely induced to compromise their convictions,” wrote Lockwood on the sudden shift from five of six jurors for the prosecution suggesting damages in the tens of thousands, to meagre, three-figure settlement. Lockwood speculated that “several of the jurors were liege

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<sup>78</sup> Williams, *Papers*, 701.

<sup>79</sup> Williams, *Papers*, 170.

<sup>80</sup> Williams, *History of the San Francisco Committee*, 343.

<sup>81</sup> Rufus A. Lockwood, *The Vigilance Committee of San Francisco: Metcalf vs. Argenti et al.: Speeches of R.A. Lockwood, Esq* (San Francisco, CA: [s.n.], 1852), 47.

<sup>82</sup> Williams, *Papers*, 156, note 1.

men of Argenti and the Committee,” though this is not a claim he delved into or evidenced further.<sup>83</sup> Either way, other content from Lockwood’s courtroom speeches highlighted the contemporary criticism of the vigilantes that Bancroft and Williams asserted did not exist. To jurors during the case’s initial trial in San Francisco, Lockwood pleaded;

Men and brethren, awake from your false security! Heed not those hireling and corrupt editors, who persuade you to surrender to the ‘patriotic and disinterested Vigilance Committee’ the custody of your character, your property, your liberty and your lives. Heed not the crocodile lamentations and hyena howlings over petty crimes, of those vampyres who ‘at midnight drain the stream of life’ in your midst, and at mid-day repeat their horrid orgies with triumphant demonstrations.<sup>84</sup>

As well as Lockwood’s unequivocal criticism of local newspaper editors – which casts further doubt on the Committee’s assertions of a hellish crime-wave sweeping San Francisco – his scathing outlook on the vigilantes’ motivations, methods and results is a notable deviation from the contemporary reactions early scholars of the group relied on.

Williams characterised the Argenti case as both a famous and extremely embarrassing event in the Committee’s history, though never in a way that could blemish their otherwise glowing reputation. In acknowledging the case, Williams positioned it as a definite financial embarrassment, but little more. Her summary of the effects of the case noted merely that, per their financial records, the Committee made “only one actual payment” of fifty dollars in relation to the case.<sup>85</sup> The lack of concern – or even interest – in the vigilantes’ public release regarding entry of private property is surely the larger issue, as is one of the prosecuting attorney’s damning indictment of their actions. Those almost sycophantic assessments of the

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<sup>83</sup> Lockwood, *Metcalf vs Argenti*, 47.

<sup>84</sup> Lockwood, *Metcalf vs. Argenti*, 5.

<sup>85</sup> Williams, *History*, 347-8.

Committee's work – particularly Bancroft's characterisation of a band of vigilantes committed only to the protection of San Francisco, merely fulfilling "their obligations to the world" – are complicated by not only the Committee's consistent overreach but also the borderline threatening way they explained and defended that overreach.<sup>86</sup> Moreover, supporting suggestions that they acted in the public good, and, in Bancroft's case, with consistent cooperation with the regular courts, are greatly complicated by the likes of Lockwood summarising their actions as "defying and trampling upon your constitution and laws, and laughing to scorn the solemn mandates of your highest courts of judicature."<sup>87</sup> Even excluding their press releases, the EC's resolution to intimidate Metcalf's legal representatives highlights an organisation keen to root out enemies and challengers to their assumed monopoly on justice, as well as a relative arrogance in terms of thinking they were in a position to simply have a case against one of their members withdrawn by intimidating the prosecutors. The Argenti fiasco, while far from being the lone smoking gun in debunking the mythic reputation of the Committee, is a particularly damning example of the Committee's dictatorial behaviour, and a revelatory incident in terms of what motivated the EC: absolute power.

As well as the excesses typified by the Argenti case, the Committee was party to a number of other corruptions and occasions of incompetence, many of which seem at least as important as their much-touted successes. Selim E. Woodworth, the Committee's resident politician and future Union Naval Officer, also went by the grandiose title of "Mandrin [sic] of the Celestial Empire and China Consul," a designation that Williams asserted was an "unquestionably commercial, rather than diplomatic" one.<sup>88</sup> Despite Williams' certainty that this was not an official diplomatic role, Mandarin was a term used in the Qing dynasty to

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<sup>86</sup> Bancroft, *Popular Tribunals I*, 215.

<sup>87</sup> Lockwood, *Metcalf vs. Argenti*, 6.

<sup>88</sup> Williams, *Papers*, 172, note 6.

confer both military and civil ranks, and Woodworth being appointed as such is certainly conceivable. With or without official designation to be the Qing dynasty's representative in San Francisco, Woodworth was nonetheless well connected with the city's Chinese community. Charles McClain noted that "within months after the first Chinese community formed in San Francisco, it approached local San Francisco attorney Selim Woodworth and asked him to act as its "adviser and arbitrator," a proposal he accepted" in late 1849.<sup>89</sup> Williams highlighted that the *Alta* referred to him as an "agent of the China boys" almost two months before this particular case. Woodworth had also previously brushed with local restaurateur – and future foreign consul – Norman Asing, regarding the latter's intent to purchase of a brothel.<sup>90</sup> Woodworth's involvement with the city's Chinese community perhaps explains his concerted interest in the case of four Chinese nationals – two men and two women – alleged to be involved in a range of criminal activities, including prostitution.<sup>91</sup> In a move unprecedented to this point in the Committee's reign, the 4 July EC meeting saw Woodworth "be allowed to appear for [the two men and two women]... representing himself as the Consul for China."<sup>92</sup> While the vigilantes had often acted as judge, jury and executioner, never had one of their number acted as legal counsel for one of their own prisoners. Rejecting a statement by two other (presumably) Chinese men complaining of the "desperate character" of the four prisoners as well as supposed charges of "arson and robbery at home [China]," Woodworth recommended both the two men and the two women be released without charge.<sup>93</sup> Claiming a conspiracy on the part of the plaintiffs, Woodworth

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<sup>89</sup> Charles J. McClain Jr., "The Chinese Struggle for Civil Rights in Nineteenth Century America: The First Phase, 1850-1870," *California Law Review*, 72, no. 4 (July 1984), 541, note 58.

<sup>90</sup> Thomas J. Osborne, *Pacific Eldorado: A History of Greater California* (Hoboken, NJ: Wiley-Blackwell, 2013), 123-124. According to Osborne, city directories listed Asing as 'foreign consul' in 1854.

<sup>91</sup> Williams, *Papers*, 164. The names of the prisoners are referenced throughout the relevant documents, however the secretary – at this time, Isaac Bluxome Jr. – evidently struggled with their names, more so than he did with so many others. Though it is always clear that the men and women referenced are the same four throughout, it seems needless to try to decipher Bluxome's spirited attempts to anglicise these names.

<sup>92</sup> Williams, *Papers*, 165.

<sup>93</sup> Williams, *Papers*, 171-172.

reported to the EC “that the simple application for their release here made will meet with your ready assent.”<sup>94</sup> If the vigilantes’ note-taking was as good as Bancroft and Williams attested, it seems fair to assume that all salient interviews and interrogations were recorded and followed.<sup>95</sup> The only recorded statement from the plaintiffs, or indeed anyone connected with the case, amounted to a very short paragraph, followed by an even shorter recommendation by Woodworth for the prisoners to be freed. Compared to the pages of evidence compiled in other investigations, the case of the Chinese men and women was almost unbelievably brief. Furthermore, no other case in the Committee’s recorded history involves one of their membership volunteering to represent the accused, conduct examinations of the plaintiffs, *and* recommend sentencing. Whether ‘Consul for China’ indicated a legitimate diplomatic appointment, or – more likely – a recognition of status within the fledgling Chinese community in San Francisco, it seems certain that Woodworth was invested in some way beyond that of his vigilante peers. This investment was to such a degree that he was able to secure the unconditional release of the four Chinese nationals with no dissent from his colleagues, nor indeed any evidence to back his claim that the plaintiffs were part of a conspiracy. Woodworth’s recommendation for the prisoners’ release concluded with him assuring the EC that “the above charge can be by me proven, should you be disposed to hear the evidence.”<sup>96</sup> At his word, and little else, the vigilantes freed all four prisoners.

To present the case of the Chinese prisoners is not necessarily to assert corruption in the ranks of the Committee, even if that is one plausible explanation for a man with so well connected with the city’s Chinese community jumping at the chance to represent four former

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<sup>94</sup> Williams, *Papers*, 172.

<sup>95</sup> Bancroft, *Popular Tribunals I*, 215; Williams, *History of the San Francisco Committee*, 221.

<sup>96</sup> Williams, *Papers*, 172.

denizens of the Celestial Empire.<sup>97</sup> Rather, it highlights at least the general inconsistency in the Committee's brand of justice and due process, and a corruption of their stated aims. In other cases – including acquittals – a semblance of diligent interviewing of witnesses and relevant parties would be followed by unanimous motions in the General Committee for the suggested outcome. Instead, this incident was expedited and resolved largely by the influence of one member. At best, this highlights the Committee's willingness to take *one* of their number at his word instead of at least attempting to maintain the illusion that they operated as an impartial administrator of justice. At the very worst, Woodworth's intervention in the case of the Chinese men and women exemplifies a serious transgression of the vigilantes' public ethics. They acted in the very manner they accused the regular justice system of acting, behaving with the very "carelessness... corruption... [and] laxity of those who pretend to administer justice."<sup>98</sup> The assertion by Williams that the Committee was "untiring in their efforts to disclose the exact facts in every case before them," seems a far cry from the course the case of the Chinese prisoners took: "exact facts" had nothing on the word of Selim E. Woodworth.<sup>99</sup>

Though it is important to explore the specific cases and incidents where the Committee failed to deliver on their heady promises of justice and punishment free of the alleged failings of San Francisco's contemporary criminal justice system, their competency should also be judged in terms of their daily operations, and in what manner this band of vigilantes held their post. An attempt at professionalism is often visible in the Committee's documents, but this does not always explain *how* the vigilantes went about their business. The furore surrounding the resignation of the Committee's undisputed symbolic figurehead, Samuel Brannan, is one example of an organisation whose public face misrepresented the

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<sup>97</sup> Williams, *Papers*, 172, note 6.

<sup>98</sup> Williams, *Papers*, 1.

<sup>99</sup> Williams, *Papers*, xiii.

turmoil and incompetency that was rife behind closed doors. Intertwined with the story of both Brannan and his resignation was the small matter of alcohol. The Committee spent vast sums on liquor to consume during meetings, with Bancroft noting that “drinks were entered in the expenses of agents and detectives in common with steam-boat fare or any other outlay.”<sup>100</sup> Where one might assume the atmosphere at Committee meetings to be serious, especially judging by the dry recounts of each day’s minutes, reports and interviews, they seemed to be a rambunctious affair judging by the sheer volume of liquor consumed and listed on expense reports. That approach lasted barely into July, as summarised by Bagley:

That day the Committee passed a resolution “that in future no spirituous liquor should be introduced into headquarters. Stimulants, if needed, were only to be served in the form of hot coffee.” This was a profound change in policy – in its first six weeks the Committee had spent over \$200 on liquor – and probably was a revolt by the teetotalers against the club-like atmosphere of the executive committee.<sup>101</sup>

The rate of spending on liquor by the Committee is revelatory given that the Committee was funded largely by subscription of its own membership as well as “donations from merchants and others” according to Bancroft.<sup>102</sup> Moreover, the Sons of Temperance, founded in New York in 1842, celebrated its ninth anniversary during the Committee’s tenure, an event its relatively new San Francisco chapter planned on celebrating.<sup>103</sup> The presence of organisations like the Sons of Temperance highlights that prohibition advocacy in the city existed. Irrespective of contemporary drinking habits and attitudes to alcohol, an organisation that was publicly so solemnly committed to aiding a crime-riddled city seemed to be spending an inordinate portion of its public funding on liquor. Additionally, the men spending subscriber

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<sup>100</sup> Bancroft, *Popular Tribunals I*, 220.

<sup>101</sup> Bagley, *Scoundrel’s Tale*, 327.

<sup>102</sup> Bancroft, *Popular Tribunals I*, 220.

<sup>103</sup> “Celebration of the Anniversary of the Order of the Sons of Temperance,” *Daily Alta California*, 30 September 1851.

and donor money on liquor were among the city's wealthiest citizens. Liquor spending continued even in spite of their rapidly dwindling capital as a result of their involvement with the Argenti fiasco, the construction of the county jail, and other wasteful allocation of resources.<sup>104</sup> As well as this general incompetency in regard to control of finances, the mere consumption of alcohol on Committee time hardly exemplifies the fresh efficiency and professionalism the vigilantes claimed to be injecting into San Francisco's justice system. The rate of consumption begs us to ponder where the Committee drew the line between a serious policing organisation and, to paraphrase Bagley, a gentlemen's social club. After all, Senkewicz had even suggested that the first Committee formed out of "boredom."<sup>105</sup> Brannan, as well as his replacement, Stephen Payran, were both "notorious drunks."<sup>106</sup> Whatever the memberships' – or, for that matter, scholars' – moral outlook regarding alcohol and alcoholism was, few could construct a convincing argument that spending hundreds of publicly-contributed dollars each month on liquor helped the Committee's efforts to stop criminals escaping justice due to perceived laxity of the regular courts.

Even the Committee membership itself could not agree on whether or not alcohol should have been available at meetings: factions of teetotallers and drinkers formed in response to perceived excess among the EC. The issue came to a head with Brannan's resignation, a day where the Committee resolved to cease all spending on alcohol to appease the former camp.<sup>107</sup> Internal squabbles like this signal a disconnect between the EC – dominated by influential and wealthy local figures – and the more inclusive General Committee. That liquor was a bone of contention undermines the notion that they were

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<sup>104</sup> Williams, *Papers*, 174, 247. As well as the huge financial burden caused by the county jail and the ongoing legal action involving Argenti, the Committee was prone to some extremely puzzling resolutions where money was involved. A resolution dated 5<sup>th</sup> July 1851, for example, stipulated that any member "who has not a horse shall get one at the expense of the Committee."

<sup>105</sup> Robert M. Senkewicz, *Vigilantes in Gold Rush San Francisco* (Stanford, CA: Stanford University Press, 1985), 76-77, 82; Ethington, *Public City*, 91.

<sup>106</sup> Bagley, *Scoundrel's Tale*, 328.

<sup>107</sup> Bagley, *Scoundrel's Tale*, 328.

always focused on their solemn duty to rid the city of crime. By-laws about alcohol, and its introduction to headquarters diverted attention from their “avowed object... to vigilantly watch and pursue the outlaws that infested the city.”<sup>108</sup>

Returning to the resignation of the Committee’s colourful leader, it seems Brannan’s status as a known drunk was indeed a factor. In both his resignation letter and the Committee’s minutes that day, Brannan had taken issue with the EC’s Sergeant at Arms, A. Jackson McDuffy.<sup>109</sup> Relatively anonymous for a man of his status in the Committee’s records, the Sergeant at Arms was only notable for raising the ire of Brannan, a dispute the EC rather vaguely termed a “difficulty” between the two.<sup>110</sup> While a statement of regret from McDuffy; a resolution from the EC clearing him of any wrongdoing; and a relatively unilluminating resignation tendered by Brannan are all present in the Committee’s documents, no specific mention survives – or perhaps was ever there in the first place – of what exactly the pair’s dispute was.<sup>111</sup> Still, considering the Committee’s resolution on alcohol in their headquarters, combined with Brannan’s fondness for a stiff drink, led Bagley at least to conclude that the figurehead’s departure was in response to “a direct challenge to [his] leadership” by McDuffy and other abstainers, as well as evidence of his outrage at their implicit judgement of his drinking habits.<sup>112</sup> Whatever the specifics, the fact the vigilantes had lost their most dynamic public face was and is shocking, especially when one considers that he formally left the Committee’s number less than a month after the hanging of John Jenkins.

Testimonies and assessments of Brannan’s involvement with the vigilantes by scholars have often been gushing in their positivity: Bancroft acclaimed his leadership as

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<sup>108</sup> Bancroft, *Popular Tribunals I*, 209.

<sup>109</sup> McDuffy is also listed as McDuffee and McDuffle, always prefaced by his above title.

<sup>110</sup> Williams, *Papers*, 179.

<sup>111</sup> Williams, *Papers*, 175, 181, 198.

<sup>112</sup> Bagley, *Papers*, 327.

something that “should be held in honoured and grateful remembrance.”<sup>113</sup> Stewart praised how Brannan spoke and acted “out of conviction... putting himself forward as the much-needed leader of [the Committee].”<sup>114</sup> Both Bagley and Williams are a little more qualified in their assessments, with the former noting the “fire and brimstone” of Brannan’s leadership and the latter noting his tenure was marked by rash decisions and a fondness for summary punishment.<sup>115</sup> What is surprising about this attention is not the range of opinions, but the fact there is such concerted attention at all. Though Brannan led the Committee and is so closely associated with its earliest dealings, he led the vigilantes for less than a third of Stewart’s estimate of their 100-day effective tenure. If one instead considers the Committee’s official existence as a time frame, Brannan’s leadership represents a tiny fraction of it, albeit a fraction where significant events occurred. Where this attention is surprisingly uninterested is in his abrupt abandonment of his duties to the Committee. Assertions that Brannan was genuinely committed to the heady ideals of justice and protection of property are hugely complicated by the curious circumstances of his resignation: at worst, it can be suggested Brannan abandoned his post, and his membership in the movement he catalysed, all over a resolution about drinking on the job. Even in the best of outlooks, Brannan resigning so early and so meekly into his Committee’s tenure hardly reinforces suggestions that he was ideologically enamoured with the cause above all else. The figure Brannan cut during his stint in power was a controversial one, but his shortcomings as a face of a movement rather than an effective leader, combined with his accountability for a number of controversies and corruptions that happened under his stewardship, cast serious shade over any attempts to assess Brannan as an effective or particularly admirable figure in the Committee, and San Francisco’s early history.

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<sup>113</sup> Bancroft, *Popular Tribunals I*, 207.

<sup>114</sup> Stewart, *Committee of Vigilance*, 24.

<sup>115</sup> Bagley, *Papers*, 329; Williams, *History of the San Francisco Committee*, 190.

To conclude, this chapter has outlined and assessed the achievements of the vigilantes, as well as discuss their general daily operations, both by discussing specific cases and general operating practices. Successes for the Vigilance Committee in their brief reign over San Francisco amounted to the effective, if not total, break-up of a gang known as the Sydney Ducks. Just as the handful of scholars of the 1851 vigilantes have found, this chapter demonstrated how the Committee's concerted investigatory effort resulted in the capture, trial and punishment of the Ducks' most infamous members. However, this chapter has also outlined the early scholarly bias towards both the Committee's interaction with the Ducks and their use of execution as a punishment, compared to the operations that actually formed the bulk of the Committee's investigative output. The second section countered this bias, by discussing the general inefficiencies, incompetence and blatant corruption that is so visible in the Committee's daily minutes. Given that their biggest successes – the hanging of Stuart, for example – occurred so early in their tenure in power, much of the vigilantes' reign was dominated by far less impressive results. Corruption and vested interests, as exemplified by the case of the Chinese nationals, was a noticeable problem in the highest echelons of the Committee's hierarchy. The case of Benjamin Robinson is one of many resolved in a that made little sense, or at least indicated a degree of incompetence. Perhaps most shockingly, the ideological commitment of the group's members, a point so often regaled in the canonical texts concerning the Committee, was severely tested by a resolution on liquor at their chambers. Last, the supposed benevolence of the vigilantes' intentions is complicated by both instances of overreach *and* their terrifying public defences of those overreaches. These two parts, taken together, offer an evaluation of the Committee's work – a Committee that, based on the arguments presented in the previous chapter, never needed to exist: though the vigilantes garnered arguably warranted praise for their capture and dissolution of the Sydney Ducks, those captures have been overplayed within their history of otherwise poorly

investigated and tried cases. Even if one concedes that the Committee had *some* success, the rest of the chapter has highlighted how that small handful of positive results was overshadowed by a sea of negative ones, most of which were marked by the ineptitude or corruption. Proving that the Committee was an effective organisation is another cornerstone of Williams' interpretation of the organisation as historically valuable, along with the necessity of action the first chapter discussed. Though this chapter has disputed that claim of effective operation thoroughly, it holds that the Committee remain important in understanding a trend of wealthy, violent activism in the antebellum West, something that will be covered in much greater detail in the third chapter.

In terms of the larger picture, this repositioning of the Committee of Vigilance as a fundamentally unsuccessful organisation complicates the construction of their legacy by scholars such as Bancroft and Williams – and how a more modern contingent have grappled with the inconsistencies between that legacy and reality. A third chapter will argue that attempts to present the Committee as necessary, disinterested and effective were a superfluous, counterfactual effort to cement the vigilantes in the historical canon. It will also explain why, despite the flaws outlined in the previous two chapters, the Committee is absolutely worthy of concerted historical attention as an early example of the kind of activism that would prove so crucial in the lead-up to the Civil War.

### **Chapter 3: “Two of the best”: myth, history and the modern scholarship of the 1851**

#### **Committee of Vigilance.**

When the Executive Committee met on 26 November 1852, little in the minutes suggested it would be their last formal, recorded meeting. As the men took their seats that Friday morning, diving right into the business of elections and the hiring of a new meeting room, at least one of their number must have been mindful of the fact that they had last met five months ago. Moreover, this was only their third meeting in six months, a stark contrast from the year before, where there were often two meetings each *day*. Regardless, those present held elections for core positions: Isaac Bluxome Jr. was to remain secretary, G.W. Ryckman was installed as president, and George R. Ward relieved of his duties as treasurer, replaced by R.B. Hampton.<sup>1</sup> Whatever the reasoning behind these appointments, any newfound drive to continue the Committee’s work of the previous year faded away as quickly as it surfaced. The diligent depositions of Jules Decase and Charles Talbot the same day belied the depleted, wearied and aimless shell of a Vigilance Committee that remained a year and a half after its inception.<sup>2</sup> The abrupt end of their written records – quite literally, with the final document ending mid-sentence – was indicative of a band of vigilantes that had simply faded away.

Thus far, this study has challenged two of the core narrative holdings conceived of and perpetuated by the Committees’ first real chroniclers: the fact that their existence was necessary in the face of spiralling crime and ineffectual law enforcement, and that they were successful in achieving their own aims. Through the efforts of Hubert Howe Bancroft and Mary Floyd Williams, early retellings of the Committee’s story were sanitized to mask the

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<sup>1</sup> Mary Floyd Williams, *Papers of the San Francisco Committee of Vigilance of 1851: Minutes and Miscellaneous Papers, Financial Accounts and Vouchers* (Berkeley, CA: University of California Press, 1919), 748-749.

<sup>2</sup> Williams, *Papers*, 749-751.

reality of a wealthy steering core protecting their financial interests in the city. These hagiographies matter because of their observable impact on subsequent secondary accounts concerning the vigilantes, the area of investigation for this chapter. In this penultimate section, three issues will be discussed: firstly, how the findings of this thesis impact the historiography of the Committee. Second, and relatedly, the limitations of this study, specifically those of the body of primary material it employs, will be explained. Thirdly, the applications of the study will be enumerated by discussing the chronological importance of the 1851 Committee in a wave of violent, upper-class activism that pervaded the antebellum West.

A considerable amount of this study's analytical work has found itself at odds with two well-known received narratives of the Committee. Bancroft's and Williams' spirited and detailed treatments of the vigilantes' story have not merely set the tone, but, through their intimidating length and first-hand evidence, have firmly controlled both any debate concerning the Committee and the boundaries of it. These studies' importance has been solidified due to the *relative* dearth of records, not to mention the provenance of the core source for this and other studies – the collected papers of the Committee's meeting minutes and other assorted documents. Where Williams and especially Bancroft had direct access to surviving Committee members and the entirety of their then-unorganised papers, subsequent studies – including this one – have grappled with the realities of writing a history of a fundamentally illegal and illicit organisation. Even Bancroft, one of few privy to the Committee's history as told first-hand by those who made it, lamented how “for a long time [he] was peremptorily refused admission behind the scenes.”<sup>3</sup> Forced to keep records clandestine due to their incriminating content, many members not among the well-known

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<sup>3</sup> Hubert Howe Bancroft, *The Works of Hubert Howe Bancroft, Volume XXXVI: Popular Tribunals Vol. I* (San Francisco, CA: The History Company Publishers, 1887), 215.

steering core kept their involvement secret, or at least did not make it public, maintaining what Bancroft called a system of “popular espionage” long after the Committee was defunct.<sup>4</sup> During their tenure, members were bound by secrecy, and admittance into especially sensitive meetings was often controlled to ensure non-members could not eavesdrop.<sup>5</sup> Breaking the code of silence – by disclosing in publicly or personally documenting the minutes of vigilante meetings or actions – was punishable by twelve lashes.<sup>6</sup> The *Daily Alta California*, the closest thing to a Committee rag, was granted more access than others.<sup>7</sup> Even still, editors Kemble and Durivage still found themselves feeding on the scraps the Executive Committee gave them when it was advantageous to do so, rather than have anything resembling access.<sup>8</sup>

All of this contextualises the problem at the core of modern efforts to tell or retell the Committee’s story: by design, primary accounts of their work were few and far between, as are press accounts. The surviving record, one kept by the Committee’s own secretary, Isaac Bluxome Jr., was only released to an outsider in 1875, nearly a quarter-century after the events took place.<sup>9</sup> That outsider, Bancroft, was one in name only: though not a member of the Committee, he had first-hand relationships with many of the membership, reinforcing the idea of the vigilantes’ story and the telling of it being something of a closed shop. Even Williams, writing after the death of most if not all of the membership, was in contact with the late Bancroft during the early stages of her study.<sup>10</sup> This is no certain indication of any

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<sup>4</sup> Bancroft, *Popular Tribunals I*, 224.

<sup>5</sup> Williams, *Papers*, 58, 93.

<sup>6</sup> Williams, *Papers*, 248.

<sup>7</sup> Will Bagley, *Scoundrel’s Tale: the Samuel Brannan Papers* (Spokane, WA: The Arthur H. Clark Company, 1999), 319.

<sup>8</sup> Bagley, *Scoundrel’s Tale*, 309.

<sup>9</sup> Williams, *Papers*, vi.

<sup>10</sup> Williams, *Papers*, viii.

nefarious doings, but it does highlight how relatively quickly the defining narratives of the Committee's work would become established, entrenched, and accepted.

Dependent on the nature and scope of a given study, scholars have either reduced the Committee to a footnote in a larger story or have elected to refrain from passing comment. Ignorance is most easily dealt with. A handful of texts where one might expect even the most fleeting of references to the Committee of Vigilance of 1851 refrain from discussing the subject entirely. The most curious of these examples are instances where scholars *do* give attention to the 1856 counterpart. Paul Gilje's *Rioting in America* mentions numerous vigilante movements from the West in the antebellum period, including the 1856 Committee as well as movements from New Orleans, Tampa and Iowa.<sup>11</sup> Despite characterising the gold fields as being "sprinkled with corpses as lynch mobs asserted their idea of order against 'undesirables,'" mention of the first Committee is conspicuously absent. David Grimsted's *American Mobbing* similarly skirts the issue: though noting the influence of the 1856 Committee on the likes of P.G.T. Beauregard, the precursor is noticeably lacking.<sup>12</sup> Naturally, scholars have no obligation to reference both iterations, but the absence of the 1851 Committee in these texts is a little curious given the ways in which the 1856 Committee borrowed from the 1851 iteration. One explanation for this might be the differences between what the two committees represented. Waldrep strongly emphasises the role of the 1856 Committee as being representative of "the continuing strength of Americans' premodern confidence in direct action, public opinion expressed by crowds."<sup>13</sup> Though the 1851 Committee shared some of those traits – inarguably a common one in vigilante movements – this chapter argues that it also acted as a vehicle for its wealthy steering core to assert and

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<sup>11</sup> Paul A. Gilje, *Rioting in America* (Bloomington, IN: Indiana University Press, 1996), 83.

<sup>12</sup> David Grimsted, *American Mobbing, 1828-1861: Toward Civil War* (New York, NY: Oxford University Press, 1998), 240.

<sup>13</sup> Christopher Waldrep, "The Popular Sources of Political Authority in 1856 San Francisco: Lynching, Vigilance and the Difference between Politics and Constitutionalism" in *Lynching Beyond Dixie: American Mob Violence Outside the South*, edited by Michael J. Pfeifer (Urbana, IL: University of Illinois Press, 2013), 74.

possibly expand their own influence. This leaves it at odds with other stories of vigilantism in terms of traceable similarities. The San Francisco association hardly had much in common with the extreme, unapologetically racist violence visible in Kansas after the Civil War, nor that in Madison County, Mississippi in the mid-1830s.<sup>14</sup> Equally, they could not lay convincing claim to being firmly committed to carrying out the spirit, if not the letter, of the law; something this thesis has explored through their own legal problems and internal corruptions. Likewise, their relationship with pre-existing judicial systems and was not the flagrant defiance of the 1856 Committee, nor was it the almost cooperative relationship cotton frontier slickers enjoyed with local courthouses.<sup>15</sup> The 1851 Committee is by no means an outlier, since every story of organised vigilantism is informed by the distinct quirks of local affairs. However, the concentration of power in its highest echelons, combined with internal politicking and some members having their own interests on the line in certain cases, make it fit less easily into the *general* trend of politics out of doors and the sovereignty of the crowd.

Where scholars have sought to offer summary of the 1851 Committee's tale, most direct the reader's attention to the work of the topic's two foremost architects. Some of these summaries are related and situated in such a way that might give the reader the impression that this organisation was unimportant, especially compared to the bombast of its successor that arrived five years later. Philip Ethington offered some intriguing comment regarding the 1851 Committee, but not before the introduction to *The Public City* makes abundantly clear that they are simply a sideshow compared to "developments such as the Vigilance Committee

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<sup>14</sup> Michael J. Pfeifer, *The Roots of Rough Justice: Origins of American Lynching* (Urbana, IL: University of Illinois Press, 2017), 19; Kevin J. Mullen, *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000* (London, UK: Palgrave-MacMillan, 2005), 28. **Though the Committee's focus on Australian men might indicate prejudice, the fact that those hanged all admitted to their crimes suggests that the attention the Committee devoted to them was not disproportionate, and thus not necessarily xenophobically motivated.**

<sup>15</sup> Philip J. Ethington, *The Public City: The Political Construction of Urban Life in San Francisco, 1850-1900* (Berkeley, CA: University of California Press, 2001), 89; Pfeifer, *The Roots of Rough Justice*, 17.

of 1856, the Workingmen’s Party of California, and the reform charter of 1898.”<sup>16</sup> Ethington positioned the 1851 Committee as a less political precursor to the 1856 counterpart, and noted the “unsurpassed... comprehensive factual and narrative coverage” found in *Popular Tribunals* and *History of the San Francisco Committee*.<sup>17</sup> This informed his own analyses, even in situations where he is critical or at odds with the assertions of those histories. Ethington regaled the same core stories foregrounded by other scholars of the association – chiefly, the four men they hung, and the breakup of the Sydney Ducks. At the end of the section, Ethington’s concluding remarks fall inside the boundaries of debate surrounding the Committee mapped out by Williams, even if he does fall short of offering the personal, congratulatory tone of the vigilantes’ premier chronicler. Ethington relates that contemporarily there was a “nearly universal consensus of approbation for the work of the first committee,” denotes similar attention to the value of public support that Williams and Bancroft gave.<sup>18</sup> Moreover, Ethington asserts that the primary influence of the 1851 Committee was their perceived legitimacy, and how that legitimacy “kept vigilantism alive as a viable option in times of crisis” for the city and beyond.<sup>19</sup> These assertions are indicative of Ethington’s unconscious reinforcement of the Committee’s hegemonic narrative the first two chapters explored, one so well ingrained by its first wave of historical attention.

The point here is not to suggest that scholars such as Ethington have simply taken Williams’ and Bancroft’s studies at face value, nor indeed is it that they have reached the same sunny conclusions. Rather, it highlights how firmly the boundaries of the debate surrounding the Committee were established so early on. Ethington’s conclusion, that the successes of the 1851 Committee made vigilante action viable *in times of crisis*, presupposes

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<sup>16</sup> Ethington, *Public City*, 14.

<sup>17</sup> Ethington, *Public City*, 90.

<sup>18</sup> Ethington, *Public City*, 111.

<sup>19</sup> Ethington, *Public City*, 111.

that mid-century San Francisco was indeed the lawless hellscape characterised by so many, a characterisation this study complicated in the first chapter. Similarly problematic is the assumed public approval of the Committee. Whether through consultation with the warning public releases by David C. Broderick in the first chapter, or the critical speeches of R.A. Lockwood in the second, this study has demonstrated where that public approval might be less overwhelmingly positive than Bancroft and Williams asserted. Though Ethington's conclusion of universal approbation is substantiated through consultation with a number of diaries and letters, the discussion of public approval as a legitimising or excusatory tool again fits neatly within the confines of the narrative Williams constructed – one of a Committee merely carrying out the wishes of the people.<sup>20</sup> Ethington's presentation of the vigilantes follows the linguistic and narrative patterns of those two early histories, even if his analyses are far more convincing.

Like Ethington, other scholars have similarly discussed the 1851 Committee as just one case in their broader studies. Though focusing on the relationship between democracy and public life in three burgeoning antebellum cities, Mary Ryan made little distinction between the two San Francisco Committees, listing them together as a single entry in *Civic Wars*' index.<sup>21</sup> Examples like this highlight Ryan's occasional over-simplification of the Committee's intricate story, in part due to the much larger concerns of her study. Ryan's assertion that "their extralegal but well-organized tribunal had adjourned in 1853," while factually hard to dispute, implies that the first Committee operated in a functional capacity right up until its final meeting – something most other histories, and indeed the Committee papers, do not back up.<sup>22</sup> Again, Ryan's short paragraph of summary is factually accurate, but

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<sup>20</sup> Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851: A Study of Social Control on the California Frontier in the Days of the Gold Rush* (Berkeley, CA: University of California Press, 1921), 218.

<sup>21</sup> Mary Ryan, *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century* (Berkeley, CA: University of California Press, 1997), 365.

<sup>22</sup> Ryan, *Civic Wars*, 140.

it also – perhaps unwittingly – misrepresents the vigilantes’ story, in part due to its noticeable brevity. Ten lines regale the vigilantes’ exploits, tellingly bookended with a footnote to Mary Floyd Williams’ *History of the San Francisco Committee*. As with Gilje and Grimsted, it is assuredly churlish to lambaste a scholar for not covering a specific topic – particularly in a text as broad and far-reaching as *Civic Wars* – and that is not the intent here. Rather, Ryan’s text is exemplary of a number of works that, even in ten lines, reinforce the established narrative of the Committee’s work in subtle ways.

Ryan is by no means the only scholar to truncate the Committee’s story. Another example is Leonard Richards’ *The California Goldrush and the Coming of the Civil War*, which generally focuses on the career of Democratic senator David C. Broderick and his death in a duel. As this study, and many others on the same subject, have noted, Broderick was perhaps the most prominent opponent of the Committee’s work, with his Law-and-Order party arguing for a similarly tough attitude on criminality but through regular legal channels rather than through the mob justice Brannan et al advocated. Publicly, the two figureheads exchanged barbs, usually through letters to the *Alta*: Broderick claimed in a communiqué that Brannan was “widely known as a turbulent man, ready to trample upon all laws that oppose his private opinions or private ends.”<sup>23</sup> The stand-off between the Committee and Broderick seems an important detail, especially in a text that concerns Broderick’s political career as does *The California Goldrush*. Instead, Richards’ discussion of the Committee, even in reference to Broderick, is limited. Mention of the first Committee occurs only as an introductory note to a section on its successor: “Vigilantism, which had been prevalent in 1851, enjoyed a rebirth in 1856.”<sup>24</sup> Like Ryan, Richards references *the* Vigilance Committee,

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<sup>23</sup> “Communication from Mr. Broderick,” *Daily Alta California*, 14<sup>th</sup> June 1851; Bagley, *Scoundrel’s Tale*, 326-327.

<sup>24</sup> Leonard L. Richards, *The California Goldrush and the Coming of Civil War* (New York, NY: Alfred A. Knopf, 2007), 188.

with no attached date, when discussing the second instance of organised vigilantism. Like others, Richards was more interested with the 1856 Committee and its relationship with the Know Nothing movement occurring around the same time. Richard Stott's *Jolly Fellows: Male Milieus in Nineteenth-Century America* falls into this same category of relative disinterest. Stott barely noted vigilantism of any kind in San Francisco, even though he, like Richards, was interested by "Broderick's dazzling ascent" through the political ranks in California.<sup>25</sup> Without belabouring the point, it seems curious that two texts so closely associated with a political figure who was the most recognisable public opposition to the Committee's existence, values and work make barely any mention of the organisation he found so objectionable – particularly when those texts are discussing the formative years of his political career. They do not address, for example, Bancroft's forthright dismissal of Broderick's "erroneous opinions."<sup>26</sup> On the opposite side, the famous – or perhaps infamous – Sam Brannan is a topic of discussion in Amy Greenberg's *Manifest Manhood and the Antebellum American Empire*, in particular his role in a group of "manly missionaries." However, Brannan's involvement as the leader and public face of an extralegal vigilante organisation plays second fiddle to his exploits as a would-be filibusterer in Hawaii.<sup>27</sup>

Ken Gonzalez-Day's *Lynching in the West: 1850-1935* took a different tack entirely with the Committee. A perusal of Gonzalez-Day's end-notes show a strong reliance on Bancroft's *Popular Tribunals, Vol. I* for the fleeting discussions of the first Committee's work – discussion that is occasionally erroneous. "Having completed their work," wrote Gonzalez-Day, "California's first Committee of Vigilance disbanded abruptly on June 30 1852."<sup>28</sup> Out of the two assertions here, one is factually wrong, the other a sweeping

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<sup>25</sup> Stott, *Jolly Fellows: Male Milieus in Nineteenth-Century America* (Baltimore, MD: Johns Hopkins University Press, 2009), 156.

<sup>26</sup> Bancroft, *Popular Tribunals I*, 320.

<sup>27</sup> Amy S. Greenberg, *Manifest Manhood and the Antebellum American Empire* (Cambridge, UK: Cambridge University Press, 2005), 236; Bagley, *Scoundrel's Tale*, 15.

<sup>28</sup> Ken Gonzalez-Day, *Lynching in the West: 1850-1935* (Durham, NC: Duke University Press, 2004), 52.

statement that belies the aims the Committee set out to achieve, and whether they were successful. As this very section has noted, the Committee met sporadically after June 1852, and how abrupt that disbanding was is debatable indeed: thinning attendances, bureaucracy and a muddled approach were indicative of an association fading away, rather than things suddenly grinding to a halt. Factual concerns aside, Gonzalez-Day seemed comfortable with the ‘mission accomplished’ narrative set forth by Bancroft in *Popular Tribunals Vol. I*: work was complete, and whatever the Committee had set out to do – which is not alluded to here – they had done it. Beyond this summary of their work, Gonzalez-Day offered interesting comment on the legacy of vigilantism in the region, noting the invocation of Committee work in case records, where lynch-mobs “intended to link extrajudicial execution to ‘tradition.’”<sup>29</sup> Gonzalez-Day’s reliance on Bancroft’s work – that which merely “glorified the San Francisco vigilantes... [to] justify the use of private power,” in Culbertson’s words – fits with his interest in legacy, but still reinforces a flawed narrative.<sup>30</sup> Despite Gonzalez-Day’s text being concerned with lynching in the West, beginning in 1850, just before the Committee’s birth, he seemed more interested by the legacy the Committee inspired, rather than how that legacy, legitimately or otherwise, was formed.

When the meat – or lack thereof – of these interpretations of the Committee is stripped away, the bones are very much the same. The same story about the vigilantes of 1851 is consistently told, albeit in slightly different ways and through different approaches. The salient facts of Ryan’s presentation are the number of people the vigilantes hung, whipped or banished.<sup>31</sup> Ethington goes into greater detail, particularly in terms of critical analysis of what the Committee’s work meant in the context of antebellum political life in

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<sup>29</sup> Gonzalez-Day, *Lynching in the West*, 65.

<sup>30</sup> William C. Culbertson, *Vigilantism: Political History of Private Power in America* (New York, NY: Pager, 1990), 36.

<sup>31</sup> Ryan, *Civic Wars*, 140.

San Francisco. However, in describing their actions, his focus remains on who they locked-up or executed, and what for, reinforcing the importance of the same specific stories and cases as other scholars have done before.<sup>32</sup> This narrative does not exist, however, because of a rigid, factually sound foundation. Rather, it is due directly to a specific representation of those foundational documents being affirmed by the first scholars on the proverbial scene. It is here we can discuss the limitations of this study, and with it, the limitations of a swathe of scholarly work regarding the Committee of Vigilance of 1851.

In tracing why certain aspects of the 1851 Committee's work have been misrepresented or ignored altogether by specific scholars, it is worth considering what might have prompted an *omission* rather than an oversight. Leaving the Committee's own record aside for a moment, the sources privileged by the likes of Williams amount to the newspaper of record, the *Alta*, and the problematic assertions of at least one early scholar who awkwardly toed the line between being a historian of the association and a friend of them. Otherwise, whatever the Committee – or, at least, Isaac Bluxome Jr. – thought to preserve, the daily record from the *Alta California*, and the musings of Bancroft form the core of her analysis. In constructing the hegemonic narrative, Williams gave weight to these sources over other viable records, in part to maintain a more positive presentation of the vigilantes. In some places, Williams completely ignored sources: the extremely critical Lockwood speeches find no place in her purportedly comprehensive history. In others, she positioned sources such as the *Alta* as the more useful and influential newspaper compared to the *Herald*. The Committee record exists as both the closest to a complete record of the vigilantes' actions, and a source that is impossible to verify as ever being complete. Both Williams and Bancroft lauded the vigilantes' preserved record as proof of the vigilantes' confidence that their actions would, eventually, land them on the right side of history.

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<sup>32</sup> Ethington, *Public City*, 109-110.

Keeping the papers would allow their just deeds to be known, fully explained and, eventually, celebrated.<sup>33</sup> Whether or not the record is complete, or even an accurate companion to whatever actually happened during that first stretch of vigilantism in San Francisco, is never questioned. Proof of deliberate massaging of the evidence is only speculative, but in Williams' compilation of the records she does note occasions where an entry is missing, incomplete, or hastily crossed out.<sup>34</sup> As much as she was keen to point out that her collection of the papers aimed to compile and order rather than edit, it seems at least some editorial work was undertaken before the papers were entrusted into her care. This is not to claim the vigilante record as having been compromised, but simply to draw attention to the very nature of the source as a record of an illegal organisation undertaking illegal acts. Moreover, it was a record kept by the membership until decades after the events took place. This, as the bulk of a source base, is problematic in terms of offering especially strong or definitive conclusions.

Where scholars have encountered this unfinished puzzle of evidence, they have relied on the group's earliest documenters for assistance. It seems that Gonzalez-Day's text is the perfect example of this: modern histories of the Committee have allowed the blanks to be filled in by fanciful turn-of-the-century historians. Those fill-ins have become a part of those primary sources the same way Isaac Bluxome's handwritten notes were in the first place. Innocuous sentences like Gonzalez-Day's assertion of their completed work and abrupt disbandment have more to do with what is contained within Bancroft's *Popular Tribunals Vol. I* than they do the surviving record. Nancy Papin's thesis on vigilante justice and civic development cites three *Herald* articles and eleven from the *Alta*, nine of which were editorials rather than standard reporting.<sup>35</sup> This overwhelming preference for the *Alta* in

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<sup>33</sup> Williams, *History*, 221; Bancroft, *Popular Tribunals I*, 215.

<sup>34</sup> Williams, *Papers*, 44-45, 154, 751.

<sup>35</sup> Nancy Papin, "Vigilante Justice and Civic Development in 1850s San Francisco" (MA thesis, University of Nevada, Las Vegas, 2003), 83-85.

Papin's work mirrors the source's quantitative dominance in Williams work as outlined in the first chapter. Similarly, Ryan refers to the *Alta* as "the major and only organ of public opinion in the region," reinforcing the questionable narrative constructed by Williams that there was only one newspaper that really mattered at the time.<sup>36</sup> This is not necessarily always intentional. In the process of researching and writing this study, I came to appreciate the enormity of Williams' contribution to this subject: her painstaking reordering and transcription of original documents is a remarkable feat, one that has made pursuance of the Committee's story easier for generations of scholars. However, that collection is far more than just a book of sources: numerous footnotes provide useful background and clarification on more obscure entries, or simply explain repetitious or incomplete minutes for the modern reader. Eventually, though, it becomes clear that these unassuming, purely informative footnotes tend to draw the reader down the same interpretive rabbit-holes Williams wished to go down herself. The intention of this chapter, and indeed the study as a whole, has never been to position Mary Floyd Williams' work as a necessarily nefarious hagiography intent on misrepresenting the Committee's story. Nor has it been to suggest that scholars have simply bought into a problematic reigning history, wholesale, and reached the same inadequate conclusions. Rather, this study has tried to demonstrate how the favouring of certain sources by two early and dominant scholars, in effort to make a case for the Committee as an important organisation, has contributed to their modern counterparts either finding themselves in interpretive ruts, or simply not interpreting it altogether.

Turning to the limitations of this study, I encountered the very same issues I envisage others did before me, but have tried to be clearer in acknowledging and communicating them throughout. In terms of primary sources, this study has made no secret of the thin body of sources it consults, particularly in terms of range. It is with this in mind that the conclusions

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<sup>36</sup> Ryan, *Civic Wars*, 98.

of both previous chapters should be explained and qualified. The basic contention of this section has been that flawed and sparing evidence, combined with reliance on less than rigorous secondary accounts, has resulted in a misunderstanding and misrepresentation of the Committee's story by modern scholars. What must be acknowledged is that this study has not examined new or different evidence, and it has relied, albeit with a critical eye, on those same secondary accounts as those before. The study's first contention, that the Committee were unnecessary – or at least not the essential development Williams and Bancroft billed it as – is based on the same newspaper modern scholars have had access to, with the only difference being the specific articles consulted. The second chapter's reimagining of an incompetent, ineffective and corrupted Committee is based on fresh interpretations of both well-trod sections of their minutes as well as previously passed-over entries. It holds, then, that the critiques of other scholars' research and conclusions laid out here apply to my own work more often than not. Still, as outlined separately in those respective chapters, the intent of this study was never to set the proverbial record straight and put paid to a century of Committee misrepresentation. Indeed, rather than seek to definitively prove those two contentions, this study has sought to demonstrate how the accepted wisdom regarding the criminal reality of San Francisco in 1851 and the Committee's effectiveness are less rooted in evidence than early scholarship asserted and, consequently, than modern scholarship sometimes implies.

When I chose to centre this study on San Francisco's first organised vigilante association, it was not with the goal in mind to write a deliberately polemic, contrarian re-examination, nor indeed was it to present this work as the first to proffer a relatively negative interpretation of the Committee's effectiveness and necessity. Ellison's disdain for the character of the highest-ranking members is repeatedly made clear – "the impetuous Sam Brannan acted as president of the general and executive bodies... he resigned because of

violent differences with other officers,” – and is left relatively unjustified.<sup>37</sup> This particular example is interesting given that both Committee documentation and other scholars such as Bagley did not allude to any violence between Brannan and McDuffy before the former’s resignation. Even still, Ellison is not alone in his summary of the organisation’s “parody of justice” as “fundamentally a social and political failure.”<sup>38</sup> Caughey was at least as scathing, asserting that “the so-called vigilante actions... were crude performances.”<sup>39</sup> What this study has done differently is to step back from the burning moral question that a small handful of mid-20<sup>th</sup> century scholars had been drawn on. Much like their more positive counterparts in Bancroft and Williams, unimpressed historians like Caughey, and Ellison focus on the vigilantes’ most (in)famous exploits: their executions. This moral concern takes precedence over a more rigorous examination of their actual effectiveness, perhaps the primary area where this study differs from other ‘negative’ interpretations. Over about five pages, Caughey was at least prepared to acknowledge how the vigilantes “did passably well in their first responses to crime,” despite never really discussing the day-to-day investigative work they actually engaged in.<sup>40</sup> Ellison, too, fell short of any discussion of the organisation’s efficiency, being prepared to defer to Williams’ assessments all too often (*History of the San Francisco Committee* is, in many cases, Ellison’s only cited text when discussing the 1851 vigilantes). Thus, his attitude toward their list of arrests and punishments – “deserving of respectful attention” – suffers the same problem as those that, morally speaking, were on the other side of the spectrum.<sup>41</sup> Scholars have defaulted to the historian who took the first twentieth-century attempt at regaling the vigilantes’ exploits for their factual understanding, even when their morally disgusted conclusions have been at odds with Williams’ sunnier

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<sup>37</sup> William Henry Ellison, *A Self-Governing Dominion: California, 1849-1860* (Berkeley, CA: University of California Press, 1950), 219.

<sup>38</sup> Ellison, *A Self-Governing Dominion*, 230-231.

<sup>39</sup> John Walton Caughey, *Gold is the Cornerstone* (Berkeley, CA: University of California Press, 1948), 248.

<sup>40</sup> Caughey, *Gold is the Cornerstone*, 248.

<sup>41</sup> Ellison, *A Self-Governing Dominion*, 230.

ones; thus including and perpetuating the subjective interpretations she presented as being closer to fact.

In tracing the root of these misinterpretations, and, indeed, in justifying the very existence of this study as a critique of those misinterpretations, the importance and relevance of the 1851 Committee in broader contexts must be explained. This study started by pondering the question of why so much attention is devoted to later developments in San Francisco – chief among them the 1856 variant of the Vigilance Committee – while the forerunner is so consistently left behind. Numerous scholars acclaimed the 1851 organisation as among the first of its kind and go on to attest to how widespread and impactful vigilance committees were across the Union in the antebellum period. Ethington and Brown both offered triple-figure estimates in terms of how many vigilante movements have occurred in American history.<sup>42</sup> Reasoning behind the formation of these groups ranged wildly. John Faragher noted tensions between Anglo and *Californio* vigilantes, and both factions were “closely following developments in San Francisco.”<sup>43</sup> Local newspapers debated the merits and ills of vigilante justice with language uncannily reminiscent of the *Alta*’s impassioned tracts – the *Southern Californian* opined that Angelenos should “no longer wait for the tardy, tricky operations of the law – which had too often and too long robbed justice of her dues” barely a year after the San Francisco Committee stopped meeting.<sup>44</sup> Furthermore, the paper proffered *Alta*-esque suggestions of corruption among “quibbling lawyers, lax judges, [and] corrupt juries,” seeing the solution in “one good *Vigilance Committee*, and Judge Lynch to visit every crime with prompt and condign punishment.”<sup>45</sup> Not every press outlet in Los Angeles was convinced: the *Star* asserted that “lynch law has not improved San Francisco.”<sup>46</sup>

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<sup>42</sup> Ethington, *The Public City*, 88; Richard Maxwell Brown, *Strain of Violence*, 96.

<sup>43</sup> John Mack Faragher, *Eternity Street: Violence and Justice in Frontier Los Angeles* (New York, NY: W.W. Norton & Company, 2016), 513.

<sup>44</sup> Faragher, *Eternity Street*, 299.

<sup>45</sup> Faragher, *Eternity Street*, 299.

<sup>46</sup> Faragher, *Eternity Street*, 299.

Whether Angelenos were positive or negative in their assessment of the 1851 Committee's exploits, the fact it was being seriously discussed in popular press highlighted the immediate political and social impact of the vigilante experiment.

Conversely, where some movements repeated the firmly *local* concerns of the 1851 Committee in their own cities, Frank Towers noted how law enforcement and vigilantes in New Orleans clashed over complex, contentious issues like slavery in the run-up to a bloody civil war over the very same concerns.<sup>47</sup> Those very New Orleans vigilantes, operating at the end of the 1850s, were contemporarily described by the *New Orleans Delta* as a “California Style Vigilance Committee,” a reference perhaps to both the San Francisco incarnations as well as associations in outlying settlements such as Marysville.<sup>48</sup> Scholars have been keen to assert the importance of vigilante violence in the period just before the secession crisis kickstarted the Civil War, but comparatively speaking they have been uninterested with the origins of those movements. Scholars such as Richard Benseel would have found the 1851 vigilantes a useful example of what “a central administration contingent on the consent of individual states” produced when that administration was perceived as weak, ineffectual, or simply untrustworthy by the local populace.<sup>49</sup> The story of vigilantism in San Francisco connects to a trend of weak states that preceded the Civil War, but in a less clear cut way than other examples. Though aspects of the local government established in 1851 seem to fit with the factors leading to state failure emphasised by Hechter and Kabiri (as outlined in the introduction), a strong case for the authorities having little in the way of time or resources to meet the demands of a singularly impatient, uncooperative population can also be made. Whether or not the state actually failed is less important than whether it could be

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<sup>47</sup> Frank Towers, *The Urban South and the Coming of the Civil War* (Charlottesville, VA: University of Virginia Press), 145-147.

<sup>48</sup> *New Orleans Delta*, June 3 1858 – see Ryan, *Civic Wars*, 146.

<sup>49</sup> Richard Benseel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (Cambridge, UK: Cambridge University Press, 1991), ix.

convincingly spun as such by press outlets in their advocacy for lynching, or by the vigilantes themselves in justifying their seizure of power.

The same goes for the reality of the crime wave in the city. Where Boessenecker confidently asserted that “in fact there was no crime wave in 1851,” he also acknowledged that the truth was less important than the pervasiveness of “the fear of crime and the common belief that the courts failed to punish criminals.”<sup>50</sup> That fear was well documented contemporarily, with personal recollections such as that of William Taylor’s understanding that the Committee only formed in response to “frequent robberies.”<sup>51</sup> What ‘frequent’ means here is vague, and is unsubstantiated, but he evidently *felt* that crime, especially the rate of robbery, was high, even if consultation with newspapers from the surrounding region suggested it was not notably higher than anywhere else. If an actual crime wave was not a cause of the vigilantes forming, but general the fear of one was, it is curious that so many scholars – unlike Boessenecker – are still prepared to buy into the received narrative of criminality in San Francisco espoused by Bancroft and Williams.

Where scholars have tried to find the root of vigilantism in the United States, the case of the South Carolina Regulators consistently appears. The Regulators date back to the 1760s, barely shy of a full century before Samuel Brannan and a handful of other prominent San Franciscans signed their names on the Committee’s first constitution. However, if we consider vigilantism as a phenomenon that appeared in ‘waves’, the 1851 Committee of Vigilance could lay convincing claim to having been at the vanguard of a huge uptick in vigilante violence in the decade or so preceding the Civil War. Brown noted how vigilantism could be divided into two sects, following a traditional East and West dichotomy. The two

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<sup>50</sup> John Boessenecker, ed., *Against the Vigilantes: The Recollections of Dutch Charley Duane* (Norman, OK: University of Oklahoma Press, 1999), 17.

<sup>51</sup> William Taylor, *Seven Years Street Preaching in San Francisco, California: Embracing Incidents, Triumphant Death Scenes, etc.* (New York, NY: Carlton & Porter, 1857), 88.

barely overlapped – vigilantism as a trend was wrapping up by the 1860s in Eastern cities like Philadelphia, while it only really began in the West the decade prior.<sup>52</sup> If vigilantism in the vast region stretching between the 96<sup>th</sup> Meridian and the Pacific Ocean began in the 1850s, it would seem that the 1851 Committee was at the vanguard of a regional inclination for vigilante justice that would grow, evolve and reach its zenith throughout the coming decade. There were at least 27 such movements in 1850s California alone, ranging from mining towns like Sacramento and Jackson to what Brown dubbed “the old Spanish cities” of Los Angeles and Monterey.<sup>53</sup> That ten-year span of what Ryan called “urban cataclysm” accounted for comfortably half of *all* documented vigilante movements in the state’s history – a fertile period of extrajudicial action kickstarted by a furious reaction to the alleged crimes of one John Jenkins.<sup>54</sup> Ryan ceded that these “episodes of urban conflict” occurred with such regularity that they could not be coincidental, and, at least in the West’s case, it would make sense to trace these movements to their relative regional root.<sup>55</sup> Ethington goes as far as to suggest that the 1851 Committee’s impact was so great that critics of the 1856 incarnation “prefaced their critical words with a claim to membership in the Committee of 1851.”<sup>56</sup> Despite this, historians such as Brown acclaimed the 1856 Committee as “the greatest of all vigilante movements,” but have been less enamoured with the organisation that existed only a few years before, went by the exact same name, and even shared members such as Isaac Bluxome Jr., in telling that engrossing story.<sup>57</sup> This study holds that there is something absolutely worthwhile in examining the Committee as the starting point for a turbulent and

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<sup>52</sup> Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York, NY: Oxford University Press, 1975), 98.

<sup>53</sup> Brown, *Strain of Violence*, 101.

<sup>54</sup> Ryan, *Civic Wars*, 138.

<sup>55</sup> Ryan, *Civic Wars*, 136.

<sup>56</sup> Ethington, *Public City*, 111.

<sup>57</sup> Brown, *Strain of Violence*, 111.

bloody decade, one that, in Ryan's words, "fed directly into the Civil War that commenced in 1861."<sup>58</sup>

A useful exercise in assessing the impact and value of the Committee to these antebellum concerns is considering the membership in closer detail. Though contemporarily membership of the Committee was secret, their records now are of course open in terms of establishing who was part of the group, especially when investigating the most prominent members. In explaining the provenance of his work concerning the Committee, Bancroft noted both that the membership did not wish to figure in history, and that they were fearful of any legal consequences that might have arisen if they had testified to their involvement in public.<sup>59</sup> Accordingly, Bancroft asserted he was "peremptorily refused admission behind the scenes," with his eventual fate as one of the first to chronicle the Committee being a stark change of fortune.<sup>60</sup> The passing of time broke the concord of silence, and Bancroft found himself inundated with "bright recollections" and "copious dictations."<sup>61</sup> The most productive area of enquiry is to try to follow the careers of the Executive Committee. The vigilantes' steering core was relatively consistent in terms of membership during the height of their power, and the more detailed records of EC meetings give the most complete picture in terms of developing the characters of the highest-ranking figures compared to the rank-and-file of the general membership. Most of the core membership of the EC can be traced to wealthy, monied Easterners, as outlined in the previous chapter. Some members are hard to trace due to either unremarkable lives before and after the Committee, or untimely deaths such as the case of EC stalwart George Oakes.<sup>62</sup> Even when considering the most prominent public face of the vigilantes, committed Samuel Brannan documenter Will Bagley noted that

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<sup>58</sup> Ryan, *Civic Wars*, 138.

<sup>59</sup> Bancroft, *Popular Tribunals I*, 215.

<sup>60</sup> Bancroft, *Popular Tribunals I*, 215.

<sup>61</sup> Bancroft, *Popular Tribunals I*, 216.

<sup>62</sup> Williams, *History*, 441.

a huge amount of Brannan's own writings – and material concerning him – have been “scattered to the four winds.”<sup>63</sup> Others, such as so-called Chief of Police J.L. Van Bokkelen, can be traced to relatively low-profile lives in San Francisco as members of fire companies.<sup>64</sup> Records establishing members' past occupations before joining the Committee, including those noted in the first chapter, prove that the steering core was made up of wealthy men, including a number of merchants.

Samuel Brannan's previous career as a San Francisco councilman indicates an interest in being active in local politics. He was prepared to operate within the regular channels of the political sphere, but his central involvement with the Vigilance Committee showed how he was equally prepared to flout them when they were not conducive to his own ends. The Committee's formation is an example of the exercise of private power discussed by Culbertson, and its deep ingraining in the concept of popular sovereignty.<sup>65</sup> Where the very authority he was a part of failed to meet his needs, establishing an extralegal band of vigilantes did not represent a shift in goals, but simply a change in strategy to reach achieve them. Likewise, his attendance at less than *ten* percent of the organisation's meetings highlights those exclusively personal motivations, and how easily he could abandon the Committee when it no longer served his economic, social or political needs – something his resignation also speaks to.<sup>66</sup> The Committee as an operation can be reconfigured as a private endeavour motivated by personal ends and an uneasy coalition of competing merchants, rather than the solemnly public duty Bancroft and Williams characterise it as.

The Woodworth brothers represent the most engrossing pair of records for the lives of former EC members. Both were born into the prominent Woodworth political family, where

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<sup>63</sup> Bagley, *Scoundrel's Tale*, 19.

<sup>64</sup> “Report of the Chief Engineer of the Fire Department,” *Alta*, December 1 1852.

<sup>65</sup> Culbertson, *Private Power in America*, 2.

<sup>66</sup> Williams, *Papers*, 819.

most of whom claimed direct descendance from early settler Walter Woodworth. James Fairhead's *The Captain and "the Cannibal"* offered a detailed insight into the lives of some members of the Woodworth family, including the two who would eventually wound up as vigilantes. A sixteen-year-old Selim was desperate to drop out of school and travel, and, with his father's blessing, spent time in the U.S. Navy before settling later as "a leading citizen of Yerba Buena."<sup>67</sup> Selim's career pre- and post-Committee included a stint as a member of the California state legislature, and, later, a naval officer for the Union during the Civil War, reaching the rank of Commander in 1862 before resigning four years later.<sup>68</sup> Woodworth's political presence in California, predating his work with the Committee, is a rare example of the kind of political ties members had that, at least in the likes of Bancroft's opinion, were supposedly non-existent among the vigilantes. In terms of direct application to the Committee's story, Woodworth's status as a senator might have played a role in whatever law enforcement existed in San Francisco and California turning a blind eye to the vigilantes' extrajudicial undertakings. At the very least, it complicates the received wisdom of Bancroft and Williams that the Committee acted with little restraint from the authorities simply because San Francisco's law enforcement was inadequate and incapable of acting.

Frederick Woodworth's career was less prolific than his brother's, or at least less well documented, but he did play a role in conjunction with Selim in establishing their influence and fortune in San Francisco. Fairhead highlighted the pair's involvement in political activism. Both abolitionists, the Woodworth brothers "took in and protected the radical African American entrepreneur and civil rights activist Mary Ellen ("Mamma") Pleasant and

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<sup>67</sup> James Fairhead, *The Captain and "the Cannibal": An Epic Story of Exploration, Kidnapping and the Broadway Stage* (New Haven, CT: Yale University Press, 2015), 301.

<sup>68</sup> Naval History and Heritage Command, "Officers of the Continental and U.S. Navy and Marine Corps 1775-1900: Navy Officers, 1798-1900, W," *Naval History and Heritage Command*, 17 April 2014. <https://www.history.navy.mil/research/library/online-reading-room/title-list-alphabetically/o/officers-continental-usnavy-mc-1775-1900/navy-officers-1798-1900-w.html>.

her husband, John.”<sup>69</sup> As well as reinforcing the case against the portrayal of the Committee as fundamentally apolitical, Selim and Frederick’s post-Committee escapades suggest a commitment to causes close to their interests, and a decisive will to act where necessary. Selim’s political career, presence in the Committee, and service during the Civil War, combined with abolitionist activism with Frederick, might indicate a man driven by spirited defence of rarefied notions of justice and the moral good. Of course, Fairhead also notes the enormous wealth the brothers accrued “almost effortlessly from their city land,” and it might be as likely that their involvement with the Committee stemmed from an interest in converting that capital into influence, or even taking advantage of a mere business opportunity.<sup>70</sup> This pair of intertwined stories proves a direct link between the 1851 Committee and upcoming political battlegrounds of secession and abolitionism, not to mention the all too real battlegrounds of the Civil War.

The future careers of the Woodworth brothers highlight their lingering presence in what seems like the full tapestry of mid-century political concerns: slavery, popular sovereignty, and the schismatic Civil War. For Selim and Frederick at least, the Committee of Vigilance was a chance to flex their political muscles ahead of larger and more personally inspired crusades. Simplistically, the commitment to an activism that transcended the traditional channels of the polity was a precedent that can be followed right up to both the legally challenging secession crisis and, on the other side, a similarly legally muddy abolitionist cause – not to mention the stops along the way. Vigilantism in San Francisco did not concern abolitionism or secessionism, but it exemplified the ability for societal issues to be debated, fought against and advocated for outside of legislatures, elections, or judicial organisations. The resurgence of this kind of *organised* extralegal activism – aped in places

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<sup>69</sup> Fairhead, *The Captain and “the Cannibal,”* 306.

<sup>70</sup> Fairhead, *The Captain and “the Cannibal,”* 306.

like New Orleans, Marysville, San Antonio and, five years later, San Francisco itself – differentiates the Committee from earlier *ad hoc* popular tribunals and establishes it as a valuable antebellum example of politics out of doors, even if this particular example lacked the kind of complex political overtones Towers observed in the “big three” Southern cities.<sup>71</sup> This activism still does not diminish the Committee’s spurious necessity and limited effectiveness; instead, the two can be seen as mutually exclusive. To explain why the Committee was important, rather than following the same poorly argued and evidenced positivity of Williams and Bancroft – wherein the Committee is a valuable piece of history due to a subjective moral concern – it seems more prudent to focus on the impulse to form and operate a vigilante organisation in the first place. The Committee of Vigilance itself borrowed from the plethora of miners’ courts across the fledgling state. However, it was unique at the time for seeking to do administer justice consistently, with a fixed membership, for an indefinite period of time. If this is the significant factor, their effectiveness in actually doing so is largely moot. Rather than relegating the Committee to having been a precursor to bigger and more bombastic cases of vigilante violence like some modern scholarship has, they should be viewed as the testbed for organised, extrajudicial activism in the antebellum period. With the concerns of evidence breadth and quality considered, this study has sought to reposition and re-examine the vigilantes within those evidential confines, freed of the discourses impressed upon the historiography by early scholars.

To conclude, this chapter has sought to situate the conclusions of the previous two sections into the broader picture of Committee history and historiography. It has tried to highlight where modern scholars have been ignorant or uninterested by the vigilantes’ story, and how that has perpetuated several mythic or inaccurate representations in their work. It has traced the root of these misinterpretations back the dominance of one or two scholars in

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<sup>71</sup> Towers, *The Urban South*, 183.

terms of filling in gaps in the surviving sources without clear factual basis. By drawing attention to the scarcity of evidence-based, alternative approaches and interpretations in Committee scholarship, this study has explained how the power of reigning histories has resulted in generations of scholars falling into interpretive ruts based on the boundaries of debate outlined by turn-of-the-century academics. Last, it positioned the Committee in a broader trend of extralegal and organised activism, one that would come to cause and perhaps define the antebellum period and the war itself. A brief conclusion will summarise the study as a whole.

## Conclusion

John Faragher's *Eternity Street* dealt with the problem of violence, especially vigilante violence, in Los Angeles in the mid-1850s. In closing, he mused that, for citizens and early scholars, "it was easier to romanticize the violence of frontier Los Angeles than to own the burden of its history."<sup>1</sup> One finds similar traces in San Francisco's history of violent activism and vigilantism. Closing her detailed tome on the 1851 Committee of Vigilance, Mary Floyd Williams gave tribute to the members' "sincerity and daring": "to that self-imposed responsibility [to the people] they were constantly faithful."<sup>2</sup> Williams saw the vigilantes' influence stretching geographically to other pioneer communities such as Colorado, Montana and Nevada, and temporally toward the 1856 Committee and beyond.<sup>3</sup> She was correct in this assertion, but unconvincing in the glorifying way she made the point. Hubert Howe Bancroft made similar errors decades prior: the Committee was "a great reform... criminality was dissipated."<sup>4</sup> Jon Walker claimed that "vigilantism became an honoured phase of community building in San Francisco," and it seems that the early historians of the Committee did indeed treat their subjects with a sense of reverence.<sup>5</sup> Both Bancroft and Williams gave a spirited argument in support of the vigilantes' place in a turbulent, formative period of American history, yet they also both elected to back up this position by foregrounding the Committee's successes and moral fortitude, paying relative lip service to their myriad of failings, or indeed instances where their purported moral purity was consistently corrupted.

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<sup>1</sup> John Mack Farragher, *Eternity Street: Violence and Justice in Frontier Los Angeles* (New York, NY: W.W. Norton & Company, 2016), 513.

<sup>2</sup> Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851: A Study of Social Control on the California Frontier in the Days of the Gold Rush* (Berkeley, CA: University of California Press, 1921), 440.

<sup>3</sup> Williams, *History*, 439.

<sup>4</sup> Hubert Howe Bancroft, *The Works of Hubert Howe Bancroft, Vol XXXVI: Popular Tribunals, Vol I.* (San Francisco, CA: The History Company Publishers, 1887), 404-405.

<sup>5</sup> Jon Jeffrey Walker, "The intellectual grounding of the San Francisco Committee of Vigilance of 1851" (MA thesis, Portland State University, 1994), 163.

This study has not sought to dismiss outright the painstaking work of these two early chroniclers – particularly given that their commitment to disseminating information on the topic made this thesis, and other scholarly texts, possible. Rather, this piece has found, and tried to explain or understand, the misinterpretations that have allowed a specific, sympathetic version of the Committee’s work to stand as the hegemon in the field. Scholars, irrespective of their agreement or disagreement with *History of the San Francisco Committee* or *Popular Tribunals, Vol. I*, must debate these monolithic works on the terms set by Williams and Bancroft.

The first two chapters tackled a sole broader point of contention each; cornerstones of the reigning interpretation and remained largely within the aforementioned terms of debate – and sources – set by Bancroft and Williams. The first chapter cast doubt on the assertion that the Committee needed to exist because crime was so utterly out of hand in San Francisco, and that regular judicial channels were unable to fix the problem, or, worse, uninterested in doing so. Within the confines of the *Daily Alta California* as the primary source employed by Williams in demonstrating this point, this study asserted that the *Alta* was a heavily editorialised record that had been advocating for vigilante action for months before the Committee’s formation. The editors, who personally knew the eventual leader of the vigilantes, Samuel Brannan, offered extensive coverage of local and regional criminal activity, and cast doubt on the adequacy of law enforcement and the local courts. Where Williams and Bancroft used this to characterise the Committee as heroic, arriving just in time to save the city from corruption and vice, this study found instead that the *Alta* wilfully exaggerated crime in the city. Other newspapers in the region, including one in Marysville, the site of a Vigilance Committee of its own, did not present the very same criminal incidents in the same way. The *Alta*, while far from being Committee propaganda, was the source

relied upon by the vigilantes' earliest scholars to demonstrate why extralegal, violent justice was a necessary development, rather than a frontier excess.

The second chapter took issue with another problematic assertion of Williams and Bancroft: the overall success of the Committee. Amid lauding of the Committee's capture of the Sydney Ducks – an initial capture that, it turned out, was a fluke – formative histories ignored what the Committee spent the rest of its one hundred days in power doing. This study found that those other days, which formed the bulk of the Committee's effective existence, were dominated by botched cases, corruption and terrifying overreaches that were at total odds with the Committee's public aims. By trying the Committee on their own goals, this study argued that most positive interpretations of the vigilantes' work usually ignored those goals in favour of their own designs, commonly moral purity. When pretences like this were stripped away, the reality of the Committee being mostly ineffective was laid bare.

Where the first two chapters found misinterpretations of the Committee's story, the third did two things: first, it demonstrated the pervasiveness of these myths in modern historiography. Secondly, it analysed the detrimental impact of these formative histories on modern interpretations. The 1851 Committee has been brushed aside in favour of the bombast of its 1856 cousin, a precursor or footnote in multiple texts that one might have reasonably expected them to receive concerted attention. Perhaps scholars have found their own problems with Williams' narrative – Ethington among others certainly did – and equated this with their conclusions being as suspect as their argumentation. Accordingly, the final section of the third chapter tried to highlight the genuine importance and relevance of the first Committee as a testbed for the violent, upper-class activism that became a noticeable trend in the antebellum West, the same kind of activism that would feed into the public sovereignty concerns of the Civil War.

In some ways, this thesis has a great deal of common ground with those early histories in making a case for the Committee as a defining moment in early San Franciscan and Californian history. Where it crucially differs was in the minutiae of how that argument was made: rather than focus on a celebratory interpretation that might help cement the vigilantes as a more palatable event in the public history, this study did away with moral concerns and reimagined the Committee as a superfluous, ineffective band, steered by wealthy merchants, whose primary aim was to look after their own property and financial interests. That approach to protection of property – taking matters into one’s own hands, using violence if necessary – would be at the core of multiple other vigilante movements in the West and East, and is at the core of the well-trod narrative concerning the secession crisis and the resulting Civil War. Reconfiguring the Committee of Vigilance of 1851 as an organisation that simply failed to achieve its goals might open the door to a reappraisal of what other vigilante organisations achieved, and what their formation said about the state of pre-Civil War government, instead of continuing with a narrative that places and occasionally celebrates vigilantism as part of a rarefied tradition of popular sovereignty in American democracy.

In disproving the arguments of Williams and Bancroft, and in lamenting some of the negative effects their hagiographies have had on the modern historiographical landscape; this study finds that *in spite* of the inefficiency, ineffectiveness and unnecessary of the first Committee of Vigilance, it is a fascinating and valuable entry in a nascent antebellum trend of violent activism by the wealthier echelon of society.

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