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A Radical Cure: Thomas Dimsdale, Radical Republicanism, and the Montana Vigilantes During the Civil War

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A RADICAL CURE: THOMAS DIMSDALE, RADICAL REPUBLICANISM,
AND THE MONTANA VIGILANTES DURING THE CIVIL WAR
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BY

GREGORY AYDT

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ABSTRACT

In late December of 1863, a group of men in the fledgling Idaho Territory formed a vigilance committee to rid the area of criminals. In little more than a month, the committee hanged twenty-one men, including the area's sheriff, Henry Plummer. This work deals with these events which took place in and around the mining camps of Bannack and Virginia City in Idaho Territory, now in the state of Montana, during the winter of 1863-64. It attempts to answer the following questions: What circumstances led to this significant outbreak of lynch law? Who decided that a vigilance committee was the only method capable of dealing with the situation existing in the territory? How did people throughout the United States learn about these events, which had occurred in the obscurity of the Far West and in the midst of America's Civil War?

This work demonstrates the political nature of the vigilante movement in Montana and its lasting impact on interpretations of the vigilance movement. Radical Republicans in Montana during the Civil War, like their counterparts in Washington, D.C., favored government intervention against slavery. From this abolitionist stand against slavery based on moral principles grew a willingness to use personal definitions of morality as the basis for intervention in political and judicial affairs. The Radical Republican political views held by influential men in Montana such as Sidney Edgerton and Wilbur Sanders caused them to form a vigilance committee in place of the legitimate legal

system represented by miners' courts, while also prompting Thomas Dimsdale, another Radical Republican, to present the issue to the public in terms of morality versus immorality, making his version of events both easier for the public to accept and also more enduring. This paper accounts for both the vigilantes' actions, and the acceptance of their views by the public as the true story of what really happened and why.

Chapter I addresses the issue of the judicial system as it existed in Idaho during the period prior to the formation of the vigilance committee. An assessment of the situation shows that even though the territorial court system was not yet functioning, the miners' courts provided a working court system for the mining camps in the area. Chapter II looks at the actual formation of the vigilance committee, detailing the actions of the vigilantes and their leaders to determine what caused them to ignore the miners' court system in favor of mob law. Their Radical Republican ideology of a powerful government acting against individuals based on moral principles provided the vigilante leaders with a concept of government conducive to extralegal action. Chapter III focuses on the acceptance of the Radical Republican interpretation of the vigilantes' actions, as presented by Thomas Dimsdale in his book, *The Vigilantes of Montana*. By presenting the lynchings in a dramatic story of good against evil based on the moralistic Radical Republican political views, Dimsdale convinced his readers of the ultimate justification of the vigilante hangings.

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CONTENTS

MAP OF IDAHO AND MONTANA 1

INTRODUCTION 2

Chapter

 I. THE JUDICIAL SYSTEM IN IDAHO TERRITORY 9

 II. THE VIGILANTES OF MONTANA 29

 III. THE STORY SPREADS 57

CONCLUSION 76

SELECTED BIBLIOGRAPHY 78



Fig. 1. Map showing selected mining camps of Idaho Territory and Montana Territory.

INTRODUCTION

In late December of 1863, a group of men in the fledgling Idaho Territory formed a vigilance committee to rid the area of criminals. In little more than a month, the committee hanged twenty-one men, including the area's sheriff, Henry Plummer.¹ The events which took place in and around the mining camps of Bannack and Virginia City in Idaho Territory, now in the state of Montana, during the winter of 1863-64 are shocking to modern readers. The summary hanging of over twenty men by a vigilance committee without the benefit of a public trial, including the sheriff who had been elected by the miners just six months before, causes historians to ask several questions. What circumstances led to this significant outbreak of lynch law? Who decided that a vigilance committee was the only method capable of dealing with the situation existing in the territory? How did people throughout the United States learn about these events, which had occurred in the obscurity of the Far West and in the midst of America's Civil War? While historians have addressed these issues to some extent, more research needs to be done in order to provide a complete picture of what actually occurred in Montana's mining camps during those controversial days.

Thomas Dimsdale's book, *The Vigilantes of Montana, or Popular Justice in the Rocky Mountains*, is the first

¹Although the sheriff actually spelled his name Plumer, even people who knew him generally spelled it Plummer. History has recorded his name as Plummer, so to avoid confusion, I will also use the accepted spelling.

historical work dealing with the formation of the Montana vigilance committee.² Originally written as a series of newspaper articles less than two years after the first vigilante hanging, the articles appeared in book form by 1866. The author described in detail the events leading up to the creation of the vigilante movement, as well as the activities of the committee after it commenced operations. Focusing on the role supposedly played by Sheriff Henry Plummer as the leader of a gang of highwaymen who robbed miners along the trails, Dimsdale built an exciting tale of action and adventure, while at the same time attempting to justify the vigilantes' actions. The book's publication history testifies to its widespread acceptance. Over twenty different editions of the book have appeared since its first publication, including a 1965 Italian edition published in Milano.³ As recently as 1981, *Time-Life Books* reprinted it as part of their "Classics of the Old West Series." Nathaniel Pitt Langford followed in Dimsdale's literary footsteps with his 1890 work, *Vigilante Days and Ways*.⁴ Langford, like Dimsdale, lived in Montana, though he was not actually in the area during the vigilante executions. By assigning blame to Plummer and exonerating the vigilantes, Langford essentially duplicated Dimsdale's book on all the major points. Though other historians wrote histories of the vigilantes during the

²Thomas J. Dimsdale, *The Vigilantes of Montana* (Virginia City, M.T.: D.W. Tilton, 1866).

³Thomas J. Dimsdale, *I Giustizieri del Far West: Un Resoconto Esatto e Imparziale della Caccia, Processo, Cattura ed Esecuzione Capitale della Banda di Henry Plummer* (Milano: Lerici, 1965).

⁴Nathaniel Pitt Langford, *Vigilante Days and Ways* (Boston: J. G. Cupples, 1890).

early 1900s, they generally followed Dimsdale's lead, making his work the primary source of information regarding the Montana vigilantes.

The extent to which Dimsdale succeeded in destroying Henry Plummer's character can be seen in the treatment given to the sheriff in histories of Montana. Respected Montana historian K. Ross Toole, in his book *Montana: An Uncommon Land*, stated flatly that Plummer "was undoubtedly psychopathic. His cold-bloodedness stood in contrast to his charm."⁵ In a similar manner, Michael P. Malone and Richard B. Roeder heap more abuse on Plummer in their work, *Montana: A History of Two Centuries*. They determined that "the handsome Plummer combined in one unstable personality qualities of charm and intelligence, but also of psychotic viciousness."⁶ Proof was seemingly not required for these statements about Plummer, because Dimsdale's entire book rested on the same premise. Only in the last forty years has Dimsdale's work even been analyzed, and only recently has it been seriously questioned by some historians, though certainly not all.

In 1958, Montana historian J. W. Smurr wrote an article appearing in *Montana: Magazine of Western History* which signaled the beginning of a new period in the historiography of the vigilantes. In "Afterthoughts on the Vigilantes," Smurr referred to the questionable reliability of Dimsdale and Langford as sources for information about the

⁵K. Ross Toole, *Montana: An Uncommon Land* (Norman, Okla.: University of Oklahoma Press, 1959), 77.

⁶Michael P. Malone and Richard B. Roeder, *Montana: A History of Two Centuries* (Seattle: University of Washington Press, 1976), 61.

vigilante movement. Then, in 1973, Dan Cushman wrote *Montana: The Gold Frontier*, a book in which he argued that the organization of robbers which Henry Plummer supposedly headed never actually existed except in Montana lore. He also stated that the vigilantes had no real evidence with which to convict Plummer for planning or taking part in any robberies. Cushman based this view on his conversations with local Montana pioneers. In 1987 the most recent work on the subject, *Hanging the Sheriff: A Biography of Henry Plummer*, continued the trend of reassessing the vigilantes and their early supporters. Authors R. E. Mather and F. E. Boswell presented a convincing defense of Henry Plummer, based on an exhaustive effort to research his life, both in Montana as well as prior to his arrival in the territory. In the process they cast considerable doubt on the reliability of Dimsdale's account.

Despite these recent efforts based on modern research to rehabilitate Henry Plummer's reputation, not much has really changed. Both the *Dictionary of American Biography* and *Who Was Who in America* continue to list Plummer as a bandit, while the *New Encyclopedia of the American West*, published in 1998, referred to Plummer as a "secret leader of an infamous gang of 'road agents' that spread terror throughout the gold area with robbery and murder."⁷ The article about Plummer admitted that this was the traditional view, challenged by Mather and Boswell, but the general article on Montana simply ignored the latest research findings, stating that "the formation of the Vigilantes to

⁷Howard R. Lamar, ed., *New Encyclopedia of the American West* (New Haven; London: Yale University Press, 1998), 893.

stop the depredations of a bandit gang led by Henry Plummer gave rise to organized government."⁸ The enduring influence of Thomas Dimsdale has continued to dominate much of the discussion about the vigilantes of Montana.

Richard Slotkin continued the historical dialogue about the vigilantes when he addressed the acceptance of vigilante activity in his book, *The Fatal Environment: The Myth of the Frontier in the Age of Industrialization, 1800-1890*. He defined vigilantism as "the assertion of a privilege of extralegal violence in a social setting where some form of law already exists."⁹ By this definition, then, vigilantes always act for political reasons, sometimes acting almost as revolutionaries. Slotkin noted that "vigilantism represents itself as the expression of the will of civilized society as a whole. . . . But for the vigilante the pretense is thin: in every case, he acts as the agent of only one class or element in his society. . . ." ¹⁰ Because the vigilantes represent only one side of the conflict, their supporters must convince the community of the threat represented by the "dangerous class" they are attacking. This precisely describes Thomas Dimsdale's purpose for writing *The Vigilantes of Montana*.

The present work uses Slotkin's arguments and applies them to the specific situation existing in Montana, but it builds on his arguments as well. The political nature

⁸Ibid., 729.

⁹Richard Slotkin, *The Fatal Environment: The Myth of the Frontier in the Age of Industrialization, 1800-1890* (Middletown, Conn.: Wesleyan University Press, 1985), 136-37.

¹⁰Ibid.

of the vigilante movement in Montana demonstrates its lasting impact on interpretations of the vigilance movement. Radical Republicans in Montana during the Civil War, like their counterparts in Washington, D.C., favored government intervention against slavery. From this abolitionist stand against slavery based on moral principles grew a willingness to use personal definitions of morality as the basis for intervention in political and judicial affairs. The Radical Republican political views held by influential men in Montana such as Sidney Edgerton and Wilbur Sanders caused them to form a vigilance committee in place of the legitimate legal system represented by miners' courts, while also prompting Thomas Dimsdale, another Radical Republican, to present the issue to the public in terms of morality versus immorality, making his version of events both easier for the public to accept and also more enduring. This paper accounts for both the vigilantes' actions, and the acceptance of their views by the public as the true story of what really happened and why. While the Radical Republicans never had the opportunity to gain control of the government at the national level, their actions in Montana provide an opportunity to see what happened when they were actually in charge.

Chapter I addresses the issue of the judicial system as it existed in Idaho during the period prior to the formation of the vigilance committee. An assessment of the situation shows that even though the territorial court system was not yet functioning, the miners' courts provided a working court system for the mining camps in the area. Chapter II looks at the actual formation of the vigilance

committee, detailing the actions of the vigilantes and their leaders to determine what caused them to ignore the miners' court system in favor of mob law. Their Radical Republican ideology of a powerful government acting against individuals based on moral principles provided the vigilante leaders with a concept of government conducive to extralegal action. Chapter III focuses on the acceptance of the Radical Republican interpretation of the vigilantes' actions, as presented by Thomas Dimsdale. By presenting the lynchings in a dramatic story of good against evil based on the moralistic Radical Republican political views, Dimsdale convinced his readers of the ultimate justification of the vigilante hangings.

CHAPTER I
THE JUDICIAL SYSTEM IN IDAHO TERRITORY

The gold rush to the newly-created Idaho Territory in 1863 brought miners to the eastern slope of the Rocky Mountains.¹ Created by Congress on March 3, 1863, Idaho Territory consisted of what had previously been portions of the territories of Washington, Dakota, Nebraska, and Utah. As miners poured into the new territory, they quickly began searching for the most profitable diggings, as all other tasks lagged far behind in importance. While the process of territorial formation failed to attract much attention from most of the miners at the time, the situation in the new territory of Idaho deserves attention because of the formation of a vigilante movement in the Bannack and Virginia City area at the end of 1863. The vigilantes justified their actions by claiming that the court system was ineffective during the latter part of 1863, but this claim lacks validity. Although territorial courts were not yet functioning in Idaho late in 1863, miners' courts were serving as a legitimate source of legal authority at that time.

By passing the organic act for the Territory of Idaho, Congress outlined the ground rules for the new territorial government. The act defined the judicial powers of the courts in the territory, organizing it into three judicial districts, with a district court to be held in each.

¹Idaho Territory in 1863 included land that is now part of the state of Montana. Consequently, the areas and places described are actually located in what is now called Montana.

The lawmakers of the territory were responsible for determining the times and places for each of the district courts to meet. This seemingly simple task was complicated by the fact that the legislators of the territory still had to be elected before they could convene the first session of the Legislative Assembly. Not only that, but before the territory held its first election, the officials were instructed to take a census for purposes of apportioning election districts in the territory.² Foreseeing this delay, Congress permitted the territorial governor to make interim judicial assignments, effective until the territorial assembly passed its own judiciary act.

The Legislative Assembly finally convened its first session at Lewiston on December 7, 1863. By December 18, they had passed legislation defining the boundaries of the judicial districts, setting the times and places for the district courts to be held, and assigning each of the territorial supreme court justices to his respective judicial district. The justices, who had been appointed by President Abraham Lincoln, were supposed to act as district court judges when the supreme court was not in session. The third judicial district encompassed the area of Missoula County, as well as the part of Idaho lying east of the summit of the Rocky Mountains, including the mining camps of Bannack and Virginia City. The legislature assigned Chief Justice Sidney Edgerton to administer the courts in this district. The court was not scheduled to convene regularly in the third district until the first Monday in April, but the judge of

²An Act to provide a temporary Government for the Territory of Idaho, *Statutes at Large* 12, ch. 117, 808-14 (1863).

any district could, at his discretion, hold a special session of the court, provided that it was announced thirty days in advance.³

The problem, however, was not undefined judicial districts, since the territorial governor could make interim assignments. The *Boise News* described the real problem as early as October 27, when it wrote that "the District Judges appointed for Idaho have been tardy in coming into the Territory, only one of whom has yet arrived."⁴ The men appointed by Lincoln to fill these judicial offices had to travel from the East, admittedly a long and arduous journey. Milton Kelly, a member of Idaho's Legislative Assembly and later a judge himself, commented on the situation in a very candid letter to the territory's delegate to Congress. He stated that "when I can look around me and see fifty murders committed in less than a year and no court to bring an offender to Justice, I must speak of it as I do of every wrong upon the people." Kelly bristled at the thought of people who did not reside in Idaho being appointed, often as political favors, and failing to arrive in a timely manner. Kelly thought that "if we have foreign appointments, the appointee should be at his post of duty within a reasonable time, say two months from the date of appointment or his head should come off." Kelly definitely believed that absenteeism had damaged the judicial process in Idaho. He felt so strongly about this that he recommended that local justices of the peace should be allowed to expand their jurisdiction,

³Idaho, *Judicial Districts Act, Laws of the Territory of Idaho* (1864), 1:582-86.

⁴*Boise News*, 27 October 1863.

acting basically as interim court judges, until the official justices arrived.⁵

According to the *Boise News*, however, one of the appointed justices was in Idaho, but had not reported his presence to the territorial authorities.⁶ In fact, Chief Justice Sidney Edgerton had arrived in the territory, along with a young lawyer named Wilbur Sanders, the Chief Justice's nephew, who travelled to Idaho with the Edgerton family. He wrote a biography of his uncle in which he described the situation which brought Edgerton to the Bannack area. According to Sanders, "circumstances, unexpected if not accidental, diverted him to the Beaver Head County east of the Rocky Mountains, where it was made to appear that the public interest required him to locate, and he reached Bannack in September, 1863." He reported his arrival to the acting governor, and was assigned to his judicial district that fall. The situation appeared to be on the verge of a major improvement, with an effective judicial system in place. Edgerton, however, dutifully observed that according to the territory's organic act, he could not perform his office until he had taken the oath of office before the "governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified."⁷ According to Sanders, no such person resided in the district "whose official character was known to the

⁵Ronald H. Limbaugh, "Fighter on the Bench: Milton Kelly's Idaho Legal Career, 1862-1870," *Idaho Yesterdays* 25 (Spring 1981): 7.

⁶*Boise News*, 27 October 1863.

⁷*An Act to provide a temporary Government for the Territory of Idaho, Statutes at Large* 12, ch. 117, 808-14 (1863).

people." Such a person could only be found by crossing the mountains to reach Boise or Lewiston.⁸

At this point, Edgerton "discussed with some of the more discreet people in the community the propriety of proceeding with his official duties without taking such oath." Faced with a choice of no territorial courts at all or a slightly irregular court system, the "discreet people" who were consulted decided that "considering the somewhat delicate governmental situation, it was deemed inadvisable for him so to do." This explanation would be less suspicious if Sanders had not gone on to explain that there were also "other considerations" to take into account, including the fact that "crime was so rampant as to seem to require for its extirpation more drastic measures than the mild processes of the common law."⁹ This suggests that Sanders and Edgerton were already planning to form the vigilance committee which would be created in December 1863. The fact that they considered the need for a vigilance committee as part of the decision-making process also indicates that the decision was not simply based on a desire to conform to the letter of the law. Instead, it appears that the implementation of the territorial court system was deliberately delayed to permit the formation of this vigilance committee. Edgerton could have opened the first session of the district court before taking an official oath of office, as he considered doing, due to the difficult circumstances of travel. Though violating the letter of the law, this action would certainly

⁸Wilbur F. Sanders, "Life of Governor Sidney Edgerton," *Rocky Mountain Magazine* 1 (1901): 445.

⁹Ibid.

have followed the spirit of the law. Instead, Edgerton decided to wait, eventually allowing the formation of a vigilance committee which violated the law both in letter and in spirit.

Obviously, Idaho's district courts were not functioning in the Bannack area during 1863. Nonetheless, the fact that no courts were actually being held does not necessarily mean that there was no law. The Idaho Territorial Supreme Court dealt with this issue in August of 1866 in the civil case of *Moore v. Koubly*. This case began in a justice's court on November 7, 1863. A justice court (held by a Justice of the Peace rather than a judge) did not have the authority to try felonies, but it could try civil cases such as *Moore v. Koubly*. The case began and was appealed to a probate court prior to the convening of the first session of the territorial legislature. Consequently, no civil or criminal code of procedure could have been enacted for Idaho Territory when this case progressed through the courts. In this decision, the Territorial Supreme Court stated that "it is, therefore, presumed that the parties were governed by the statutes of Washington Territory, in force in Nez Perce and other counties segregated from that territory by the act of Congress of March 3, 1863."¹⁰ Since Bannack and Virginia City were both formerly part of Washington Territory, this case appeared initially to indicate that Washington's civil and criminal codes of law were still in effect, until Idaho's new codes were enacted.

¹⁰*Moore v. Koubly*, 1 Idaho Territory 59 (1866).

Another case from the same Supreme Court term, however, dealt with the question more directly. In *People v. Williams*, the defendant, John Williams, was indicted for the crime of highway robbery, which he allegedly committed in September of 1863, in Boise County, Idaho Territory. Again, the legislature had not yet convened, but the territory had been created. The Court's decision stated that the Congressional act creating the territory by combining portions of several different territories "undoubtedly was a repeal of the several organic acts named--they no longer had any form or validity, had been superseded and become nullities." They proceeded to say that for these laws to remain in force "would be to extinguish the fountain and insist upon the rivulet continuing its flow--cutting off the source of life and affirming continued vitality." According to the Court, the organic act creating Idaho replaced the laws of the various territories from which it was created, and had become the governing law of the territory.¹¹

The Court went on to observe that Congress generally stated in the organic act that the previous laws of the former territory were in effect until they were altered or repealed. Then, the Court noted that this "uniform practice" indicated that a special provision was necessary for the laws to remain in effect, although they specified that this ruling only referred to criminal law, because civil law was a completely different case. Since the organic act did not specify that the previous laws remained in effect, and could not have done so because four different codes would

¹¹*People v. Williams*, 1 Idaho Territory 87 (1866).

have been involved, the court ruled that no criminal code was in effect from Idaho's creation until the passage of a criminal code by the territorial legislature. Therefore, "there was no statute punishing the offense charged in this indictment at the time it was alleged to have been committed."¹² This ruling meant that from March 4, 1863 until January 4, 1864, when the legislature adopted English common law pending adoption of a code similar to Nevada's, no criminal code existed. As a result of this Territorial Supreme Court decision, the suspected robber involved in the case never faced trial, and two criminals who had been convicted for crimes committed during this period were released from prison when the ruling was announced in August 1866.¹³

The situation in Idaho looked bleak, with no district courts to enforce a criminal code and no criminal code for any courts to enforce. Was there no legitimate source of legal authority present in the territory? The answer, perhaps, can be found in a newspaper headline from the *Boise News* simply titled "Mining Laws of the North Fork of Elk Creek District." The article stated that the miners of this district had gathered on August 5, 1863 to approve a fairly lengthy list of mining laws, which were then printed as the bulk of the article. One law defined the boundaries of the district, while several others explained how the boundaries of different claims were determined, such as creek claims, hill claims, and gulch claims. Several laws defined

¹²Ibid., 87-88.

¹³"The Year Without a Code," *Idaho Yesterdays* 25 (Spring 1981): 13.

the differences between represented claims and abandoned claims, while another law dealt with the duties of an elected officer known as the Recorder. It was his duty "when called upon to record a claim, to go on the ground to be recorded, and see said ground properly marked and measured and corner stakes set," for a fee of two dollars per claim.¹⁴ These laws pertained strictly to the profession of mining, with no sort of criminal law being mentioned, but this meeting was important because it was an example of a mining district in action. These mining districts were being formed in mining camps throughout the territory.

As part of the mining districts' attempts to maintain order despite the lack of organized government, they also allowed miners to elect their own officers using democratic methods. On May 24, 1863, the miners of the Bannack district elected a judge, a coroner, and a sheriff. The candidates for sheriff included Jefferson Durley and a popular miner named Henry Plummer.¹⁵ During Plummer's stay in the mining camp over the previous winter, he had impressed his fellow miners with his mannerly, soft-spoken personality and his willingness to listen to the problems of others. A veteran miner with several years of experience in the American West, Plummer possessed a remarkable ability to analyze people's problems and provide them with the advice and assistance they needed. On election day, the miners of Bannack convincingly selected Henry Plummer to be their

¹⁴*Boise News*, 13 October 1863.

¹⁵James McClellan Hamilton, *From Wilderness to Statehood: A History of Montana, 1805-1900*, edited by Merrill G. Burlingame, with a foreword by A. L. Strand (Portland, Ore.: Binfords & Mort, 1957), 224.

sheriff, casting 307 votes for him out of a total of 554 votes. This vote total gave Plummer a greater majority of votes than any other officer elected that day.¹⁶ Once elected, Plummer proved an efficient lawman. One of his accomplishments as sheriff included the collection of subscriptions from the local populace to build a jail in Bannack. Though many members of the community preferred the less expensive method of simply hanging prisoners, Plummer succeeded in soliciting enough private donations to build the jail.¹⁷

Many of the problems faced by miners in Montana resembled the difficulties addressed by other miners at other times. Mining districts had been formed by earlier gold miners in the interior of California during the Gold Rush of 1849 in another situation where there was little or no organized government. The miners and settlers who crossed the continent to reach California knew very well that they were leaving the law behind them. A man who had just crossed the Missouri River on his way westward wrote that "we were out of reach and beyond the arm of law and order, and the only law we had was that formulated unto ourselves." Even lawyers were aware that on the overland trail, organized law was no longer a factor. An attorney from Missouri told his fellow travelers that they were now "travelling through a country . . . influenced by no law save that which nature's God has implanted in the heart of every man." Despite this

¹⁶R. E. Mather and F. E. Boswell, *Hanging the Sheriff: A Biography of Henry Plummer* (Salt Lake City, Utah: University of Utah Press, 1987), 35-36.

¹⁷*Ibid.*, 54.

absence of formal law, the settler's understanding of law acted as a "common denominator, explaining both the definitions people shared and the conduct they followed" on the overland trail. Even though they were no longer controlled by the legal constraints of the law, their behavior continued to be shaped by their understanding of the concept of law. This shared understanding of law and the accepted behavior associated with it provided the philosophical basis for miners' law as it was created in California.¹⁸

The experience of settlers on the overland trail to Oregon or California resembled the situation faced by miners lacking any formal system of law. The emigrants on the trail responded by attempting to recreate from memory the judicial processes they observed in formal courts of law before they departed for the West. They wanted legitimate trials, with "legitimate" meaning as similar to regularly established courts as possible, based on the emigrants' ability to remember them. The most notable feature of trials on the overland trail involved the efforts made by participants to replicate the criminal-law jury, sometimes using entire companies of travelers to determine guilt or innocence by majority vote. Any lawyer who might be present was always welcomed and even requested to assist with the trial, serving as a prosecutor or a defense attorney.¹⁹ These trials of

¹⁸John Phillip Reid, *Law for the Elephant: Property and Social Behavior on the Overland Trail* (San Marino, Calif.: Huntington Library Press, 1980), 8-11.

¹⁹John Phillip Reid, *Policing the Elephant: Crime, Punishment, and Social Behavior on the Overland Trail* (San Marino, Calif.: Huntington Library Press, 1997), 117-18.

overland travelers were similar in many respects to the miners' courts, reflecting a similar basis in judicial tradition.

On a practical level, miners had to draw on prior experience as the primary source for the laws which they were about to create. Ownership of mining claims proved difficult to protect, because most Americans possessed little experience with the special legal problems inherent in the field of mining. Lead miners from Wisconsin offered some limited experience, but miners with European backgrounds provided many of the mining codes implemented initially in California. These included Spanish Americans familiar with Mexican mining ordinances derived from European mining codes, as well as English and German immigrant miners. The process of forming a mining district in California consisted of calling a meeting among the miners of a specified area, voting at that meeting to form a district, and following that vote with the election of officers and the drafting and adoption of a code of "laws" or rules. Once the district was established, disputes between miners were settled by either the presiding officer, an elected "judge," argued in front of a committee of miners, or possibly even presented to the whole membership of the district comprising a mass jury.²⁰

The codes formulated in California sometimes included "provisions for appointing constables and trying alleged criminals before locally elected 'judges' and 'miners' courts.'" Even if the code did not include such provisions, an accusation of robbery or murder could still

²⁰Rodman Wilson Paul, *Mining Frontiers of the Far West, 1848-1880* (New York: Holt, Rinehart and Winston, 1963), 23-24.

launch the formation of an impromptu "miners' jury" to try the case.²¹ The sources of criminal law in the miners' courts are less apparent than the sources of the mining codes, but presumably miners derived criminal law from previous experience, just as they did the mining codes. In fact, lawyers were definitely present in California during the Gold Rush.²² Since some of these lawyers were either attempting to strike it rich as miners or were at least associated with the mining camps, it would seem likely that they utilized their knowledge of law to provide guidance when criminal cases were tried in the miners' courts.

As the mining frontier moved back eastward, from California to the Rocky Mountains, Californians moved with it, taking their knowledge of miners' courts with them. In the Rocky Mountain mining camps, some mining districts created very precise procedures and rules for the operation of their courts, including carefully noted specified terms, regulations for the court, oaths, jury selection, and clerk duties. The miners' court's jurisdiction was often similar to the equity and law jurisdiction that United States courts granted, receiving support not by coercion, but by the willing consent of those miners who voluntarily formed the district. Many districts were not very formally organized in their procedures, and simply selected a president or judge while all of the miners gathered to perform the duty of a jury. The miners wanted a simple system of justice, with an emphasis on practicality, so they did not allow legal

²¹Ibid., 23-24, 163.

²²Reid, *Law for the Elephant*, 17.

technicalities such as pleading or adjournment in their courts. Of course, most cases in the miners' courts involved civil law, mining law in particular. Nonetheless, some criminal cases were tried, and conviction usually meant banishment, flogging, or hanging, depending on the seriousness of the crime.²³

While these punishments sound similar to those inflicted by vigilantes, the miners' courts were not simply another type of mob action. Key differences existed between miners' courts and mob law. Those involved in mob actions "announce no new laws, create no new system, add nothing whatever to the jurisprudence of the land." Lynchers usually do not keep records of their activities, and they generally refuse to release the names of their leaders. In addition, they often compete against regular officers of the law. In comparison, miners' courts "protected property, suppressed crime, [and] prevented anarchy" as the "friend and forerunner" of the judicial system. Miners' courts also generally upheld the theory that the accused was innocent until proven guilty. They "proceeded with great care, and gave the prisoner the benefit of every doubt."²⁴ Although vigilantes and miners' courts often meted out similar punishments, their methods of arriving at these punishments were clearly different.

Miners' courts provided a method to uphold law and order, and their rulings were affirmed by the state and

²³Duane A. Smith, *Rocky Mountain Mining Camps: The Urban Frontier* (Bloomington; London: Indiana University Press, 1967), 87-89.

²⁴Charles Howard Shinn, *Mining Camps: A Study in American Frontier Government* (1884); Reprint, edited and with an introduction by Rodman Wilson Paul (New York: Harper & Row, 1965), 227-30.

federal judicial systems. Just as the early examples of miners' courts came from California, so did the first example of this acceptance of miners' courts by organized government. In 1851, future Supreme Court Justice Stephen J. Field, then a representative in the California legislature, realized that the courts in this new state would soon be faced with disputes relating to mining law. This area of law had previously been the domain of miners' courts, before the establishment of state courts. In order to deal with these upcoming cases, Field convinced the California legislature to pass an act stating that "in actions respecting 'Mining Claims,' proof shall be admitted of the customs, usages, or regulations established and in force at the bar, or diggings, embracing such claim; and such customs, usages, or regulations, when not in conflict with the Constitution and Laws of this State, shall govern the decision of the action."²⁵

The California legislature accepted miners' courts, and the state courts of California demonstrated their acceptance as well by affirming this law in several different court decisions. The California Supreme Court handed down one of the most famous of these decisions in 1864. In acknowledging the legitimacy and legality of miners' courts, Chief Justice Silas W. Sanderson stated that "having received the sanction of the legislature, they have become as much a part of the law of the land as the common law itself, which was not adopted in a more solemn form." The United States Supreme Court followed suit in 1865 when they decided the

²⁵Paul, *Mining Frontiers*, 169.

Nevada case of *Sparrow v. Strong*, in which mining codes were involved. In his decision, Chief Justice Salmon P. Chase admitted that the national government had given "its implied sanction" to legislation accepting miners' court decisions into the body of law.²⁶ In 1866, Congress passed the first of several acts that accepted most of the miners' codes into federal law also.²⁷ The miners' courts served as the "forerunners of the judicial system" in many territories, and they gradually gave way to the territorial court system when it became established. As a result of this evolution from miners' courts to territorial courts, the territorial courts accepted precedents established by the miners' courts.²⁸

Clearly, by 1863 the miners' courts were basically accepted as legitimate entities with genuine legal authority. If miners' courts were functioning effectively in Idaho at this time, then there is not much doubt that they provided a potential source of law in this otherwise lawless area. Miners' courts met to determine the fate of several accused criminals during 1863 around Bannack and Virginia City. For example, the miners accused two men named Moore and Reeves of firing into an Indian tepee, killing three Indians and a Frenchman during the early months of 1863. To obtain an impartial jury, the miners from Bannack sent a messenger to a neighboring camp, requesting that some men travel to Bannack to serve as the jury for the trial. Once these men arrived, however, a lengthy discussion ensued as the miners debated

²⁶*Sparrow v. Strong*, 70 U.S. 104 (1865).

²⁷Jimmie Hicks, "The Frontier and American Law," *Great Plains Journal* 6 (Spring 1967): 60-61.

²⁸Smith, *Rocky Mountain Mining Camps*, 87-88.

whether all those present should try the case, or only the selected jury. After several hours, the group agreed to a trial by the jury, allowing the proceedings to continue. Ultimately, the jury delivered a guilty verdict, voting for banishment and confiscation of property. In his description of the trial, Thomas Dimsdale expressed his belief that the jury refused to vote to execute the convicted men because of fear created by the friends of the accused, whom he described as intimidating the judge and jury with verbal threats during the trial.²⁹

The murder of Deputy Sheriff J. W. Dillingham at Virginia City later in June also prompted a trial, held by a miners' court immediately after the killing. Buck Stinson, Haze Lyons, and Charley Forbes faced trial as the accused murderers before a jury of the whole, meaning that everyone in attendance voted for conviction or acquittal. Dimsdale described potential problems with this method when he wrote that "prejudice, or selfish fear of consequences, and not reason, rules the illiterate, the lawless, and the uncivilized," who would be able to "kill the well-considered verdict of the best citizen." Nonetheless, Stinson and Lyons were convicted, and sentenced to hang.³⁰ Forbes, however, spoke in his own defense, claiming that his pistol did not fire. He "worked upon the sympathies of the jury by his pathetic references to his mother and other members of his family," prompting the miners to vote for acquittal. About

²⁹Thomas J. Dimsdale, *The Vigilantes of Montana* (1866); Reprint, with an introduction by E. DeGolyer (Norman, Okla.: University of Oklahoma Press, 1953), 34-38.

³⁰*Ibid.*, 75-82.

two thousand miners arrived later that evening to witness the executions, but the event did not proceed as planned. Haze Lyons had written a letter to his mother, which a friend read to the crowd before the hanging. The letter, containing "tender reminiscences of his boyhood, loving messages to his mother, and a most touching farewell," caused the few ladies in attendance to beg for mercy for the convicted, and a friend of the prisoners called for a new vote on the hanging. After a couple of contested votes, those in favor of hanging were ordered to go up the hill, while those against execution were to gather at the bottom of the hill. In the words of X. Beidler, one of the executioners and later a vigilante, "those in favor of no hanging were a lazy lot of loafers and naturally went down hill and beat us." The miners overturned the previous verdict of the miners' court, freeing the prisoners.³¹

While these earlier trials show some of the difficulties associated with miners' courts, the trial of George Ives at Nevada City provides convincing evidence that miners' courts were capable of functioning effectively in the area around Bannack and Virginia City by late in 1863. Ives faced trial for the murder of Nicholas Tbolt, a young man known as "the Dutchman." Thomas Dimsdale's account of the trial, concluding December 21, provides detailed information about the whole procedure. As usual, considerable debate centered around whether to obtain a separate jury or simply

³¹John Xavier Beidler, *X. Beidler: Vigilante*, edited by Helen Fitzgerald Sanders in collaboration with William H. Bertsche, Jr., with a foreword by A. B. Guthrie, Jr. (Norman, Okla.: University of Oklahoma Press, 1957), 26-29.

have the whole assembly act as jury. Dimsdale stated that "in settling upon the mode of trial, much difference of opinion was developed; but the miners finally determined that it should be held in the presence of the whole body of citizens." He went on to say that "a delegation composed of twelve men from each district (Nevada and Junction) was appointed to hear the proof, and to act as an advisory jury," although an attempt to add twelve more men from Virginia City failed.³² This description conformed with the earlier descriptions of miners' court proceedings.

The Ives trial was not a part of the vigilante action. In fact, the participants conducted it in the traditional method of the miners' courts, known for their democratic procedures. W. Y. Pemberton served as the Secretary for this trial, and he specifically noted that the officers conducted the trial according to the regular miners' court organization. For this reason he emphasized that the trial was conducted legally.³³ Wilbur Sanders, acting as the prosecuting attorney, succeeded in convincing the miners' jury to recommend conviction of Ives for the murder of Tbolt, and also persuaded the full miners' court, including all of the miners present, to vote in favor of accepting the report of the jury.³⁴ Sanders immediately made a motion to hang Ives, which was also approved by the court. Sanders denied a request for delaying the execution until the following day, with the support of the seemingly ubiquitous X. Beidler. Upon hearing Ives request time to prepare for his execution,

³²Dimsdale, *Vigilantes of Montana*, 105.

³³Burlingame, "Montana's Righteous Hangmen," 42.

³⁴Dimsdale, *Vigilantes of Montana*, 105-08.

Beidler shouted from a rooftop across the street, "Sanders, ask him how long a time he gave the Dutchman," referring to the man Ives had murdered.³⁵ This acerbic comment caused laughter among the crowd of miners, and assured that this time there would be no last-minute reversals of the court's decision. This successful prosecution of a murderer demonstrates that the miners' courts were capable of providing justice in the mining camps of Idaho at the end of 1863.

The evidence indicates that the judicial system of Idaho Territory consisted of two separate parts during 1863, the official territorial district courts and the unofficial miners' courts. Not only were the territorial courts not functioning effectively during this period, they were not functioning at all. The lack of justices for the courts, as well as the fact that there was no criminal code in existence during this time, both combined to make the official judicial system completely ineffective. The miners' courts, while being unofficial, were recognized by constitutional courts, making them legitimate sources of legal authority. Although not without some problems, miners' courts provided an effective and legitimate court system for the Territory of Idaho in 1863, particularly by the end of the year.

³⁵Beidler, X. *Beidler: Vigilante*, 72-73.

CHAPTER II
THE VIGILANTES OF MONTANA

The formation of a vigilance committee in the area around Bannack and Virginia City seems surprising in light of the evidence showing that miners' courts were functioning at the time, as demonstrated by the successful prosecution of George Ives. In spite of this, Wilbur Sanders, with the support and advice of Chief Justice Sidney Edgerton, formed a vigilance committee to rid the mining camps of crime. The miners did not feel that the camps were unusually violent. If the miners did not regard the camps as violent, and if what violence existed could be dealt with through the miners' courts, then why did Sanders and Edgerton launch a vigilante movement? The answer to this question lies in the political views of the vigilante leaders and the men they hanged. Sanders and Edgerton, Radical Republicans, did not hang the vigilance committee's victims simply because they disagreed with them politically; however, because of their experiences with the abolitionist movement and the Civil War, political affiliation became a moral issue for Radical Republicans such as Sanders and Edgerton. Radical Republicans desired a strong federal government capable of acting against slavery. Because of their ideas about the nature of government, they viewed mob action in support of morality as a logical extension of governmental power. This combination of factors led them to sanction and promote a vigilance committee as the answer to the area's problems.

While miners spent most of their time in the mining camps searching for gold, historians have not devoted much attention to their legal pursuit of riches. They have focused instead on the criminal behavior that occurred in the mining camps during this time. Bands of highway robbers, known as road agents in the vernacular of the frontier West, threatened the trails between the mining camps in Idaho during the latter half of 1863. The road agents primarily targeted the area around the mining camps of Bannack and Virginia City, holding up travelers for their gold dust, as well as anything else of value they might have. Thomas Dimsdale served as the editor of Virginia City's *Montana Post* from late in 1864 until his death in 1866 and wrote *The Vigilantes of Montana*, a book describing this period of territorial history. According to Dimsdale, "it was found that one hundred and two people had been certainly killed by those miscreants [road agents] in various places." His book painted a picture of lawlessness and excessive violence in and around the mining camps of Bannack and Virginia City.¹

From another perspective, however, a different story emerged. Granville Stuart traveled throughout the western frontier, and later wrote about his experiences. Referring to Virginia City in 1863, he wrote that "there were comparatively few criminal acts considering the way the whiskey and the money flew."² A report to Denver's *Rocky*

¹Dimsdale, *Vigilantes of Montana*, 25.

²Granville Stuart, "A Memoir of the Life of James Stuart," *Contributions*, I (1876), 56; quoted in James L. Thane, Jr., ed., *A Governor's Wife on the Mining Frontier: The Letters of Mary Edgerton from Montana, 1863-1865* (Salt Lake City, Utah: University of Utah Library, 1976), 52.

Mountain News also described the situation in the mines at Virginia City. Written to the editor by a miner on November 28, 1863, the letter mentioned gambling, drinking, shootings, and a murder. The writer, however, did not mention these items until the seventh paragraph of a ten paragraph letter, preferring to begin by discussing the weather, considerable amounts of mining news, and the success of area businessmen, before moving on to a casual description of these criminal activities. He closed the paragraph by explaining that "Although [these] occurrences are numerous here, it is [said] that as few accidents of this kind [occur] as at any new mining locality [where] gold and whisky are in abundance."³ While both of these reports acknowledge some criminal activity, neither Stuart nor the newspaper correspondent described anything that they regarded as excessive violence, considering the circumstances. These reports provide firsthand evidence disputing Dimsdale's claim that violent and lawless behavior had become intolerable in the mining camps.

Nathaniel P. Langford, a resident of Bannack during most of 1863, also wrote a book about these events after they occurred, generally following Dimsdale's testimony. Both Dimsdale and Langford blamed Henry Plummer, the elected sheriff of the Bannack and Virginia City mining district, for the violent state of affairs, claiming that he was the leader of this band of road agents.⁴ In fact, Langford wrote that Plummer and his band were "little else than devils

³*Denver Rocky Mountain News*, 30 December 1863.

⁴Mather and Boswell, *Hanging the Sheriff*, 5.

incarnate," and that "no crime was too atrocious for them to commit, no act of shame or wantonness was uncongenial to their grovelling nature."⁵ Clearly, Langford's book joined Dimsdale's as a scathing denunciation of Henry Plummer, the road agents, and the lawless violence they believed existed in the mining camps.

Yet another letter to the editor of the *Rocky Mountain News*, dated August 26, 1863, contradicted this story, however. Writing to defend Sheriff Plummer against an attack made upon him by the authors of a previous letter to the editor, these citizens of Bannack praised Plummer as "a gentleman in every sense of the word," stating that his performance as sheriff should receive "the hearty and unanimous approbation of each and every honest citizen of this district." They explained that Plummer was attacked because "he is too good a sheriff for such characters," and they closed by proclaiming that "the inhabitants of Bannack City and its miners are as quiet, orderly and peaceable as can be found in any mining country." Ten citizens signed this letter, including Nathaniel Langford, the same man who would destroy Plummer's character and decry the terrible violence of the mining camps more than twenty-five years later. Which story should be considered as the truth? Presumably, Langford's testimony at the time should be regarded as the most accurate and unbiased assessment of the situation, since his later recollections probably show the influence of Dimsdale's inaccurate description.⁶

⁵Nathaniel Pitt Langford, *Vigilante Days and Ways* (1890), 23; quoted in Thane, *Governor's Wife*, 52.

⁶*Denver Rocky Mountain News*, 21 October 1863.

Undoubtedly, the mining camps experienced some acts of violence, but the books written by Dimsdale, Langford, and most other historians since them, have exaggerated the lawlessness. A recent book about this subject reassessed the supposed "reign of terror," as Dimsdale called it, during 1863. Dimsdale claimed that during this time, he could document the fact that 102 people were murdered by the road agents. In reality, he documented the murder of eighteen people, with two more presumed killed. Only eleven robberies were confirmed during this period, with two more presumed. Apparently, Dimsdale greatly exaggerated his figures, casting doubt on other portions of his account as well.⁷ At the very least, historians must admit that the citizens of the area at that time disagreed among themselves about how much violence actually existed in the mining camps.

The trial and execution of George Ives late in December 1863 seemed to indicate that from this time forward, any crimes or lawlessness occurring in the local mining camps would be punished by the rudimentary, but successful, miners' court in public trials. In reality, however, this event ushered in a period of vigilante activity, cloaked in a veil of secrecy which has been only partially penetrated even to this day. The Vigilantes of Montana⁸ became legendary in Western lore almost as soon as they began their assault on accused criminals, but this notoriety has not led to much new

⁷Mather and Boswell, *Hanging the Sheriff*, 99-100.

⁸Although Montana was not partitioned from Idaho Territory until May 26, 1864, after the initial round of vigilante executions, the group became known as the Vigilantes of Montana. Since this chapter continues the story of the vigilantes into Montana's territorial existence, I will refer to the area as Montana throughout the remainder of the work.

information about the vigilance committee's activities. Even 135 years after these events, Thomas Dimsdale's *The Vigilantes of Montana* provides one of the most detailed descriptions of the committee's actions. It set the tone for almost everything that has been written about the vigilantes since it was published in 1866.

Dimsdale openly admitted in his beginning paragraph that he wrote the book "to prove not only the necessity for their [the vigilantes] action, but the equity of their proceedings."⁹ The fact that Dimsdale felt compelled to prove the necessity of the committee's actions indicates that their behavior prompted accusations of impropriety soon after it occurred. Dimsdale's statement also points out one of the difficulties inherent in the study of the vigilantes: the primary source of information about the committee was written by a man intending to vindicate the committee's acts. Dimsdale's arguments supporting the actions of the vigilance committee, however, do not stand up to an objective investigation of the facts. Virginia City's *Montana Post*, the newspaper for which Dimsdale served as editor until his death in 1866, provides evidence which refutes the rationale used by Dimsdale to justify the vigilance committee's behavior. The facts show that the vigilantes' actions were not justifiable in the name of public safety.

The story of the vigilantes actually begins immediately after the execution of George Ives. According to Dimsdale, the public trial of Ives demonstrated to anyone who observed it that "if every road agent cost as much labor,

⁹Dimsdale, *Vigilantes of Montana*, 3.

time, and money for his conviction, the efforts of the citizens would have, practically, failed altogether." In other words, even though the miners' court successfully prosecuted a murderer, it had not accomplished the task quickly enough or cheaply enough to please at least some members of the community. Those people disappointed with the operation of the miners' court desired "some shorter, surer, and at least equally equitable method of procedure."¹⁰ Wilbur Sanders, who earned considerable respect for his role as the prosecutor in the Ives trial, felt that the time to act on this feeling had arrived. Immediately after the hanging of Ives, Sanders met that night with four other men from Virginia City, including X. Beidler. They gathered in the back room of a store, to form a group for the purpose of "arresting thieves and murderers and recovering stolen property." Extinguishing the lights, Sanders administered the new organization's oath while the members joined in a circle with hands raised toward the sky in the blackness of the darkened room.¹¹ This meeting marked the beginning of Virginia City's vigilance committee. Sanders' plans for swift and inexpensive retribution began to take shape.

The vigilantes decided to attempt to capture Aleck Carter as their first move against an accused criminal. The accusation against Carter stemmed from the execution of George Ives. While Ives stood on the platform moments before his execution, the judge asked if he had any final words he would like to share. Ives replied, "I am innocent of this

¹⁰Ibid., 118.

¹¹Beidler, *X. Beidler: Vigilante*, 80.

crime; Aleck Carter killed the Dutchman."¹² Based on this statement, the vigilance committee chose to make Carter their first target. According to Dimsdale, twenty-four men left Virginia City on December 23 in search of Carter. On the trail, a man named Red Yager informed the group that Carter had been ejected from a dance he had attended the night before, and was now in quite an inebriated condition at a ranch called Cottonwood. On arriving at Cottonwood, however, the vigilantes learned that Carter and several friends had been warned by a letter to leave town; consequently, Carter was nowhere to be found. Red Yager delivered the letter of warning from Virginia City, before he met the vigilantes. Although the group was "vexed and dispirited," they decided to return in the direction of Virginia City.¹³

While returning, the group learned that Yager had camped at the Rattlesnake ranch, so a group broke off to pursue him as well. The vigilantes captured Yager there, arresting him not for any specific robberies or murders, but rather for "criminal interference with justice" by delivering the letter warning Carter. The group brought Yager back to join the main party at Dempsey's ranch, where they interrogated him about his role among the road agents. Yager admitted he delivered the letter, but he accused George Brown of writing it. Brown, who worked as the barkeep at Dempsey's, corroborated Yager's story, acknowledging that he authored the letter. After hearing this testimony, the vigilantes decided to put the issue of the two men's guilt to

¹²Dimsdale, *Vigilantes of Montana*, 113.

¹³*Ibid.*, 125-27.

a vote. The entire group voted in favor of hanging both Yager and Brown, but the vigilantes' unanimity soon showed signs of fracturing. One member of the party apparently felt that he no longer wanted to participate in the activities about to occur, and attempted to leave for home. Several of the other vigilantes responded by raising their shotguns, pointing them at the departing man, and preparing to fire.¹⁴ Dimsdale reported that "the click! click! click! click! of four guns, however, so far directed his fears into an even more personal channel, that he concluded to stay."¹⁵ This incident clearly shows the vigilantes used fear and intimidation to convince doubters, even among their own members.

The bylaws of the vigilance committee stated that prisoners were to be brought back to Virginia City for presentation of proof to the executive committee of the vigilantes. This executive committee was supposed to make the final decision about the prisoner's fate, though since the bylaws also stated that "the only punishment that shall be inflicted by this Committee is DEATH," they did not possess many options. Freedom or execution were the only choices.¹⁶ Despite both their bylaws and the fact they told the prisoners they would be taken to Virginia City, the vigilantes took Yager and Brown only as far as Lorraine's ranch, a two-hour ride on horseback. Here, after sleeping for a few hours, they awakened Yager and Brown around 10:00 P.M. Yager, sensing he was in a desperate situation, told

¹⁴Mather and Boswell, *Hanging the Sheriff*, 81.

¹⁵Dimsdale, *Vigilantes of Montana*, 131.

¹⁶Mather and Boswell, *Hanging the Sheriff*, 96-97.

his captors that, "I know I am going to die--I am going to be hanged. . . . What I want to say is that I know all about the gang . . . I should die happy if I could see them hanged, or know that it would be done. I don't say this to get off. I don't want to get off."¹⁷ When prompted by the vigilantes to name members of the gang, Yager stated that Henry Plummer, the sheriff of both Bannack and Virginia City, acted as the "chief" of the road agents. He also implicated numerous others. If Yager hoped his life would be spared in exchange for this information, he was disappointed. Despite Yager's suggestion that "I wish you would chain me and not hang me until I have seen those punished who are guiltier than I," the vigilantes hanged both him and George Brown from a cottonwood tree at Lorraine's ranch in the middle of the night.¹⁸

When the vigilante group returned from its mission, it reported its findings to the vigilance committee's executive committee. The small group of men who comprised the executive committee decided to pursue those named on Yager's list immediately, beginning with Sheriff Plummer and two of his deputies, Ned Ray and Buck Stinson. Four men, including X. Beidler, started for Bannack to carry out this plan. Arriving at Bannack, they found a dispute already simmering. Neil Howie, a resident of the area, had captured a suspected robber named Dutch John. When Howie informed Sheriff Plummer that he had the prisoner, Plummer responded with the comment, "Well, I suppose you are willing he should

¹⁷Dimsdale, *Vigilantes of Montana*, 131-35.

¹⁸Mather and Boswell, *Hanging the Sheriff*, 81-82.

be tried by the civil authorities. This new way our people have of hanging men without law or evidence isn't exactly the thing. It's time a stop was put to it."¹⁹ Actually, Howie did not intend to allow the civil authorities to try the prisoner, so he refused to turn him over to Plummer, hiding him in a nearby cabin instead. Arriving on Saturday night, January 9, 1864, Beidler's small contingent met with "the most energetic citizen," presumably Wilbur Sanders, expecting to find a Bannack branch of the vigilance committee already organized. After attempting to recruit potential members with little success, the group decided to wait until the following day to add to their numbers.²⁰

Sunday arrived cold and snowy, as the thermometer dipped well below zero, assuring that the snow on the ground in Bannack would remain there, and an eyewitness reported that "an unusual silence seemed to brood over the little settlement."²¹ For Wilbur Sanders, the most important question of the day involved how to capture Henry Plummer. Mattie Edgerton, daughter of Chief Justice Sidney Edgerton, overheard her father discussing this question with Sanders. As she described the conversation, "Wilbur, at first suggested that someone warn Plummer of his danger, and when he went to the stable for his horse have men concealed there to shoot him. On due consideration this seemed to appear more unlawful than previous hangings, and the idea was abandoned." Instead, Sanders and Edgerton decided to form three companies

¹⁹Ibid., 83.

²⁰Dimsdale, *Vigilantes of Montana*, 145.

²¹Francis Thompson, "Reminiscences of Four Score Years," *Massachusetts Magazine* 6 (October 1913): 180.

of men, one for each man they intended to arrest.²² This meant that many volunteers would be necessary, so the vigilantes spent the day attempting to convince the residents of Bannack to join the cause. The expected recruits failed to materialize, however, forcing Dimsdale to admit that "no great progress was made after all."²³ Consequently, the leaders resorted to taking men off the street, handing them loaded shotguns, and demanding that they go along. Those who questioned the vigilantes' orders likely received a harsh reply in return, as demonstrated by the example of Alexander Davis. The vigilantes urged Davis, a miners' court judge, to join their group. Davis "politely refused to do so, informing the members that his principles would not permit him to be a party to executions that did not have the sanction of a court and jury." Hearing this, the group told him that "he had the choice of joining the Vigilantes, leaving the region or being hung."²⁴ Given these choices, it is not surprising that the vigilantes convinced enough men to join them in the capture of Plummer, Stinson, and Ray.

The vigilantes arrested the three men about 10:00 P.M. A "well known citizen" knocked on the door of the home where Plummer stayed, asking for the sheriff. Plummer joined the group of men outside, thinking they wanted to talk to him about Dutch John, the prisoner captured the previous day. Walking across the street to the cabin where Sanders lived, Plummer knocked on the door, but Sanders wanted to avoid a final confrontation with the lawfully-elected sheriff. He

²²Mather and Boswell, *Hanging the Sheriff*, 83-85.

²³Dimsdale, *Vigilantes of Montana*, 145.

²⁴Mather and Boswell, *Hanging the Sheriff*, 85, 96.

extinguished the light in the house, hoping the crowd would hang Plummer without his participation. Receiving no answer from Sanders, Plummer began talking to the group of men, who had now stopped outside the cabin. At this point, Sanders decided the group would not act without his presence, so he came out to join the crowd, giving the command, "Company! forward-march!"²⁵ The vigilantes followed the order, parading Plummer and the other two captured prisoners to the site of the execution, Bannack's Hangman's Gulch. Plummer and Sanders were well acquainted with each other, and as the group made its way to the gallows, Plummer told him, "you men know us better than this." Sanders and the vigilantes, however, would not be deterred. The vigilantes hanged Plummer, Stinson, and Ray, with the execution being delayed only long enough for a boy to be sent to Chief Justice Edgerton's house for some rope.²⁶

The following day, the vigilantes attempted to arrest Joe Pizanthia, known as "the Greaser" because he was the only Mexican in Bannack. The committee wanted to arrest him, not because he had been accused of any specific crime, but because they intended "to see precisely how his record stood in the Territory."²⁷ This time, however, the arrest did not go as planned. Pizanthia shot the two men who entered the cabin where he was hiding, killing one of them. Infuriated by the death of one of their own men, the crowd of citizens outside the cabin opened fire. A witness to the event observed none other than "the chief justice of Idaho

²⁵Dimsdale, *Vigilantes of Montana*, 148.

²⁶Mather and Boswell, *Hanging the Sheriff*, 85-87.

²⁷Dimsdale, *Vigilantes of Montana*, 151-52.

among the gathered citizens, armed with a Henry rifle."²⁸ Pizantia did not surrender, despite the fusillade of fire, so the mob asked Edgerton for the use of a small howitzer cannon belonging to the government which was stored in Edgerton's cabin under his bed. With the Chief Justice's consent, they shelled the cabin until there was little left of it. After brutally killing Pizantia, the mob burned what remained of his cabin and tossed the body into the inferno.²⁹

Sidney Edgerton apparently felt somewhat guilty about participating in the mob's depredations, since according to his daughter he told his family that he "had witnessed the scene from the hill above," but had then left and gone home because, "he thought it about time for the Chief Justice to be elsewhere."³⁰ Guilt, however, never entered into Dimsdale's description of the event. He defended the vigilance committee's actions against its detractors, describing the "prompt and really necessary severity which they exercised," and stating that "had their punishment been left to outsiders, the penalty would have been cruel and disgusting in the highest degree."³¹ Since in reality, it is difficult to imagine a more "cruel" or "disgusting" punishment, Dimsdale's statement provides evidence of the biased nature of his account.

The hangings continued in Virginia City as well, with the vigilance committee's executive committee condemning six men to death during an evening meeting on January 13.

²⁸Thompson, "Reminiscences," 185.

²⁹Mather and Boswell, *Hanging the Sheriff*, 89-90.

³⁰Ibid., 90.

³¹Dimsdale, *Vigilantes of Montana*, 154.

One of the men, Bill Hunter, escaped by crawling along a drainage ditch leading out of town before he was captured, but the vigilantes captured and hanged the remaining five men the following day. They executed the entire group at the same time, including Boone Helm, Jack Gallagher, Frank Parish, Haze Lyons, and Clubfoot George Lane.³² Dimsdale stated that all five men admitted their guilt during questioning, but an eyewitness to the event recorded in his diary that "all of them maintained their innocence to the last."³³ Over the course of the following days, the vigilantes hanged nine more men. The execution of Bill Hunter on February 3, 1864 ended the initial phase of the vigilance committee's activity. The hanging of Hunter, the man who had escaped from the vigilantes in Virginia City, brought to twenty-one the total number of men hanged by the committee.

The vigilantes and their supporters justified the vigilance committee's action based on a claim that no other methods for administering justice existed in the area at the time. As shown in the first chapter, the trial of George Ives by a miners' court resulted in the conviction and execution of an accused criminal, using a public trial by jury. Vigilante hangings replaced the democratic methods of miners' courts with private trials by men holding preconceived notions about the guilt of the prisoner. Dimsdale and those who followed in his literary footsteps defended this change using a variety of arguments, none of

³²Ibid., 158-70.

³³Mathers and Boswell, *Hanging the Sheriff*, 91.

which hold up under scrutiny. Dimsdale argued that the miners themselves lacked wisdom and were often influenced by illogical arguments, making them unfit to act as a jury. As long as the right to a trial by a jury of one's peers remains a hallmark of American judicial theory, however, the argument that miners were not smart enough to serve on a jury lacks validity. As Dr. J. W. Smurr observed, the argument that miners did not possess adequate intelligence "was in reality an attack on the rationale of the entire American court system."³⁴

The argument that jurors in a miners' court were often subjected to outside influences seems to be a legitimate fault of the system, based on our modern view of juries in which the jurors are supposed to be shielded from public opinion. Actually, the miners' court simply reflected an older view of how the jury system should operate. While the practice of politicking among the jurors might appear quite improper based on a modern view of the jury's role, an older view of the jurors' purpose explains why this type of behavior was not really unusual or an indication of a faulty system. The miners' court was based on the traditional jury system as it was brought over from England to the colonies. Its roots go back to medieval England, where the jury was expected to reflect local interests. In fact, the medieval jury was presumed to know something about the events connected to the case being heard before the trial began.³⁵

³⁴J. W. Smurr, "Afterthoughts on the Vigilantes," *Montana: The Magazine of Western History* 8 (Spring 1958): 11-12.

³⁵Thomas Andrew Green, *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury, 1200-1800* (Chicago; London: University of Chicago Press, 1985), 108.

The concept of the jury being subject to public influence was transferred from England to the American colonies, and settlers carried it westward as they moved with the frontier. In Indiana during the Jacksonian era, "the jury . . . was the voice of the community," possessing the ability to "relax or affirm moral standards of the community according to its perception of what justice required."³⁶ In the South, where many of the miners in Montana were from originally, the idea that juries should reflect public opinion remained dominant up to the time of the Civil War. Southern law was based on the influence of local opinion and "was kept malleable and personal, more to accommodate the needs of consensus than to reform public morals."³⁷ Obviously, the influence of public opinion on the jury was not an unusual occurrence even in regularly constituted courts, so the fact that miners' courts were subject to outside influence should not be considered as proof of their failure, but rather as an indication of the changes which have occurred in judicial theory since that time.

Dimsdale also claimed that the vigilantes used private trials because they feared revenge from the criminal element. Dr. Smurr pointed out, however, that the vigilantes generally conducted their captures and executions without using even a mask to conceal their identity, a strange risk to take if retaliation constituted a genuine threat. Fear of attack by any criminals remaining in the community seems to

³⁶David J. Bodenhamer, "The Democratic Impulse and Legal Change in the Age of Jackson: The Example of Criminal Juries in Antebellum Indiana," *Historian* 45 (February 1983): 208.

³⁷Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York; Oxford: Oxford University Press, 1982), 377, 394.

be an excuse rather than a convincing reason for private trials. Another argument by Dimsdale and the vigilantes against the miners' court involved Sheriff Plummer. They claimed that as long as Plummer, the supposed leader of the criminals, remained as the primary law officer, public miners' court trials were useless. Even if Plummer did act as the criminal mastermind, which is doubtful, there is no doubt that he was one of the first men executed. Despite this fact, the vigilantes continued to use private trials for all of the hangings after Plummer had been removed as sheriff, refuting their own argument. Finally, Dimsdale and others argued that capturing criminals required quick action, something miners' courts were unable to provide. Again, supporters of the vigilantes have ignored a critical element negating the force of their argument. No one can deny the importance of speed and secrecy in the capture of criminals, but the trial and execution of the criminals, once captured, did not require instant action. In other words, had the vigilance committee simply acted as a posse to capture criminals and to prevent their escape, trial by the miners' court could have accomplished justice without resorting to vigilante methods.³⁸

Dimsdale also attempted to justify the formation of a vigilance committee by claiming that it ended all crime in the area, noting that "in a few short weeks . . . the face of society was changed, as if by magic. . . ."³⁹ A study of Virginia City's *Montana Post*, however, shows that the

³⁸Smurr, "Afterthoughts on the Vigilantes," 13.

³⁹Dimsdale, *Vigilantes of Montana*, 15.

vigilantes did not end the threat from road agents or immediately civilize Montana's mining camps. On August 21, 1864, only about eight months after the formation of the vigilance committee, four road agents robbed the passengers of a stage coach en route from Virginia City to Salt Lake City, taking twenty-seven thousand dollars worth of gold dust. The article in the *Post* observed that "this business [highway robbery] is commencing a little early," apparently referring to the short amount of time since the vigilantes had supposedly ended the road agent threat.⁴⁰ An even more deadly and costly attack by road agents occurred in Portneuf Cañon, the site of the previous attack, on July 13, 1865. The road agents attacked the coach in broad daylight, killing four passengers, seriously wounding three others, and robbing the passengers of sixty thousand dollars worth of gold dust.⁴¹

Occasional robberies continued to occur, culminating in the hanging of yet another accused road agent by the vigilantes late in September 1867. This was not the first hanging by the vigilance committee since their activities of 1863-64, as several more men had been executed by them during this time, but the accusations accompanying this hanging separated it from the others. The committee claimed that Charles Wilson, whom they hanged, belonged to "a secret organization, numbering thirty-five active agents and over one hundred accomplices, sworn to a certain purpose. It included robbery, incendiarism, and murder." According to the newspaper article in the *Montana Post* detailing the

⁴⁰*Virginia City Montana Post*, 27 August 1864.

⁴¹*Virginia City Montana Post*, 22 July 1865.

execution, the group had "spotted for murder several prominent citizens, whenever an opportunity offers." The article closed with a threat, stating that the leaders of this group were "desperado's [sic] of the worst character, and they must now abandon their schemes, or cope with an organization more powerful than they."⁴² This comment did not refer to the judicial system of Montana Territory, even though territorial courts had been established in Virginia City since the seating of the first grand jury of Montana's First Judicial District on December 5, 1864.⁴³ It referred instead to the Vigilantes of Montana, who refused to relinquish authority to the territorial court system, even after its establishment.

The refutation of Dimsdale's arguments justifying the formation of the vigilance committee indicates the need for a better explanation of the events which took place. An investigation of Wilbur Sanders' and Sidney Edgerton's political views provides the basis for this answer. Edgerton and Sanders both subscribed to the Radical Republican political creed, and immediately became leaders of the movement in Montana.⁴⁴ Edgerton represented the state of Ohio in Congress at the time of his appointment, and he passionately defended the abolitionist cause throughout his political career, beginning his assault on slavery as a delegate to the Free Soil party convention at Buffalo in 1848.⁴⁵

⁴²*Virginia City Montana Post*, 28 September 1867.

⁴³*Virginia City Montana Post*, 10 December 1864.

⁴⁴Malone and Roeder, *Montana: A History of Two Centuries*, 75.

⁴⁵Sanders, "Life of Governor Sidney Edgerton," 442-44.

An incident occurring in 1859 provided more evidence of Edgerton's anti-slavery connections. In November of that year, relatives of the imprisoned radical abolitionist John Brown approached Edgerton, asking him to deliver to Brown "some mementoes and messages of affection" as part of his journey to Washington, D.C. for the opening of the Congressional session. Although Brown's relatives lived in the Congressional district represented by Edgerton, their request was not based solely on the fact that they were his constituents. As a lawyer in Akron, Ohio earlier in his career, Sidney Edgerton counted John Brown as one of his clients. While the authorities denied Edgerton's request to meet with Brown, the incident demonstrates Edgerton's connections within abolitionist circles.⁴⁶ As a Radical Republican abolitionist in Montana, Edgerton was forced to attempt to coexist with his bitter political enemies. While serving in the House of Representatives as a Congressman from Ohio, Edgerton professed his strong beliefs about the issue of slavery. In an 1860 speech on the House floor, he described slavery as "the climax of wickedness--peerless and unapproachable in its atrocious preeminence."⁴⁷ In a later speech, he declared that "slavery is a sin, an outrage against humanity, and an insult to God. Disguise it as you will, it is still the crowning iniquity, the most ghastly atrocity."⁴⁸ Edgerton's stance against slavery showed his

⁴⁶Ibid.

⁴⁷Congress, House, 36th Cong., 1st sess., *Congressional Globe* (29 February 1860): 930.

⁴⁸Congress, House, 36th Cong., 2nd sess., *Appendix to the Congressional Globe* (31 January 1861): 129.

tendency to view political issues as issues of morality. When combined with his low opinion of the Democratic party, this tendency caused him to see the situation in Montana as a clear-cut moral issue needing immediate and drastic attention.

Edgerton's hatred of the Democratic party provided the other guiding force in his political life. He initially associated Democrats with their support of slavery, but after the secession of the southern states, he had another reason for his feelings toward Democrats. Referring to a statement by northern Democrats in 1862 stating that the Democratic party had been loyal to the United States government, Edgerton responded by saying that "such a declaration as that at this time, when we are in the midst of the revolution in which we have been plunged by this Democratic party, is perfectly astounding." Edgerton not only held the Democrats responsible for the southern rebellion, but he considered practically anyone associated with the Democratic party to be guilty of treason. In the same speech, titled "The New Conspiracy," Edgerton stated that "they [Democrats] assisted treason to come rapidly to a head and to overrun this entire land." Finally expressing his fears completely, Edgerton remarked "I know that in the northern States there are at this time men calling themselves Democrats, who are, in reality, as deep-dyed traitors as Jefferson Davis or ex-Secretary Floyd."⁴⁹ Edgerton identified almost all Democrats with treason, and he associated treason with immorality. His

⁴⁹Congress, House, 37th Cong., 2nd sess., *Appendix to the Congressional Globe* (28 May 1862): 250-51.

deeply-rooted hatred of slavery and his passionate support for the Union as the only defense against this evil worked in tandem to vilify anyone belonging to the Democratic party, whom he saw not as a political opponent, but as a threat to the moral stability of the nation.

When Sidney Edgerton and Wilbur Sanders arrived in Montana, they found what Sanders would later refer to as "the left wing of Price's [Confederate] army."⁵⁰ A solid majority of Montana's miners voted with the Democratic party. Making matters worse in the opinion of Sanders and Edgerton, Sheriff Henry Plummer was also a Democrat. Edgerton and Sanders must have felt quite uncomfortable surrounded by men they considered to be traitors. In reality, Henry Plummer, although a Democrat, felt just as uncomfortable, being a staunch Unionist. In fact, in 1863 Plummer wrote letters to his sister and brother in which he told them that he "was in constant danger from the Secessionist majority in the area."⁵¹ To Edgerton, however, the fact that Plummer was a Democrat labeled him and his fellow miners as participants in treason.

At this point, Sanders' and Edgerton's concept of the role of government entered into the equation. Radical Republicans desired aggressive action by the national government against slavery. This support for strong federal government often led them to support other measures which projected government power, such as taxes on notes issued by state banks and the military draft.⁵² In a speech to the

⁵⁰*New York Times*, 2 January 1890.

⁵¹Mather and Boswell, *Hanging the Sheriff*, 188.

⁵²Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper & Row, 1988), 24.

House of Representatives, Sidney Edgerton described his idea of government and law. Arguing for the right of the United States government to intervene against the seceding states, Edgerton observed that "we are told . . . Government is powerless; we cannot enforce the laws." He responded to this assertion by arguing that "law is a sacred thing, and its enforcement the highest duty; but when law is invoked to arrest treason and robbery, then we are asked if we intend to resort to coercion. Is not coercion the essence of all government? Not the coercion of unfeeling, intangible State organizations; but the coercion of men who are responsible to the law."⁵³ This statement provided the basis for explaining the behavior of Sanders and Edgerton when faced with the situation they encountered in Montana. They applied their belief in powerful, coercive government to the situation in Montana by forming a vigilance committee to enforce their personal views of morality.

Edgerton and Sanders did not form the vigilance committee to enforce the written law, however; they based their conception of government power on higher law. In the same speech in which Edgerton presented the Radical's view of government's essential power, he argued against slavery based on the common law, stating that according to natural law, slavery was not permissible. Referring to higher law, Edgerton stated that it "was not created by law; it existed before constitutions and laws, and cannot be impaired by them."⁵⁴ By basing his argument against slavery on natural

⁵³Congress, House, 36th Cong., 2nd sess., *Appendix to the Congressional Globe* (31 January 1861): 129.

⁵⁴*Ibid.*, 128.

law, Edgerton hoped to justify going against the constitutional law of the nation, which had been interpreted to allow slavery. In the same way, he could justify the formation of the vigilance committee, despite its illegalities, by calling for a battle against immorality based on this higher law. The Radical Republicans' methods from their fight against slavery were used to combat what they viewed as another evil institution: the Democratic party.

Sanders and Edgerton were convinced of the moral superiority of their Radical Republican political views, correctly judging slavery to be a moral wrong. They were just as convinced that all Democrats were disloyal traitors to the Union, and saw the treasonable behavior of Democrats as a moral issue equalling slavery. Since Sanders and Edgerton believed that the government should intervene to crush the rebellion, it is only logical that they would seek to act against Democrats whom they held as responsible for secession and civil war. Sanders and Edgerton would not trust the miners' courts, because in their estimation the miners were traitorous Democrats. They especially would not trust the elected sheriff, because he too was a Democrat. Henry Plummer had been popularly elected, but he could not earn the trust of Sanders and Edgerton because of his membership in the Democratic party.

Evidence exists showing that Wilbur Sanders and Sidney Edgerton may have plotted the execution of Henry Plummer even before the questionable accusation made by Red Yager. Dimsdale stated that the letter carried to Sanders at

Bannack by Beidler and the vigilantes from Virginia "evidently took for granted the fact of their organization," even though the letter itself contained the first word of any kind relating to firm accusations which might have justified the organization of a vigilance committee.⁵⁵ This evidence of prior planning lends credence to the theory that Plummer's execution had more to do with his political beliefs than with unsubstantiated and unproven accusations of criminal activity. Sanders and Edgerton had journeyed to Montana from the East for the chance to win political offices. Henry Plummer was a Democrat "of pleasing and affable manners and of good ability, who had attracted many friends."⁵⁶ Unlike Easterners Sanders and Edgerton, Plummer had been in the West for several years, and Sanders considered Plummer to be "in many respects the most conspicuous citizen of Eastern Idaho." As a popular Democrat, Plummer showed himself potentially capable of providing stiff competition for Sanders and Edgerton.⁵⁷

The participation of many citizens of Bannack in the execution of Plummer might be taken as evidence against a political motive for the execution, but how many citizens really participated of their own accord? Thomas Dimsdale provided an answer to this question, but not in the book he wrote celebrating the vigilance committee. In the January 14, 1865 edition of the *Montana Post*, Dimsdale wrote an editorial looking back at the events that had taken place one year before. Of the first executions, he wrote, "'Red' and

⁵⁵Dimsdale, *Vigilantes of Montana*, 145.

⁵⁶Thompson, "Reminiscences," 183.

⁵⁷Mather and Boswell, *Hanging the Sheriff*, 74, 85.

Brown had been hung on the Stinkingwater [River], and Plummer, Ray and Stinson had been executed at Bannack. These executions had taken place at night, and not very many were in [on] the secret." He then contrasted those hangings with later executions in Virginia City, stating "but here in Virginia it was different. It was the doings of the community, not of any committee. . . ." ⁵⁸ This editorial clearly implies that Plummer's hanging was carried out by a small group of vigilantes, acting under cover of darkness, with no real community support or participation. Since the community knew of the supposed criminal allegations against Plummer, yet chose not to act, it is only logical to conclude that the men who lynched the lawfully-elected sheriff were motivated by another factor. Henry Plummer's political beliefs and the threat he posed to Edgerton's and Sanders' political careers provide a plausible motivation for the vigilance committee's action.

Ironically, while serving in Congress both Edgerton and Sanders made comments condemning the actions of mobs. In a speech on slavery in 1860 a few years before he participated in the formation of the vigilance committee, Edgerton lamented the inability of Northerners to voice their opinions about the evils of slavery due to "a power above law and above Constitution. . . . the power of the mob, controlled by the priveleged class." ⁵⁹ Sanders made his statement as a senator during a discussion on the riot at Homestead, Pennsylvania in 1892, almost thirty years after he

⁵⁸*Virginia City Montana Post*, 14 January 1865.

⁵⁹Congress, House, 36th Cong., 1st sess., *Congressional Globe* (29 February 1860): 931.

himself instigated mob law. Speaking out against the role played by the Pinkerton Detective Agency, Sanders stated that "armed bodies of men prowling around, unauthorized by law, are to be condemned, and are by the authorities and tribunals that have jurisdiction over them to be visited with condign punishment. . . ." ⁶⁰ Though these comments initially seem to make Edgerton and Sanders appear hypocritical, they actually fit in with the Radical Republican logic of mob law.

Edgerton could denounce mobs defending slavery, because their defense of slavery did not give them the moral high ground. Edgerton only justified mob law in defense of morality, so using it to defend an immoral institution such as slavery was wrong, just as he stated. Similarly, the Pinkertons at Homestead were not defending a moral issue; consequently, Sanders could criticize them without compromising his ideological beliefs.

Sanders and Edgerton viewed coercion as "the essence of all government," and their statements on slavery and the Democratic party show that they viewed issues in terms of morality versus immorality. Combining their concept of government with their focus on morality, it required only a small step in logic for Sanders and Edgerton to continue using coercion outside the boundaries of law against the Democratic miners, a group they considered to be morally reprehensible. This provides a solid explanation for the actions of Sanders and Edgerton, and their leadership and support of the vigilantes.

⁶⁰Congress, Senate, 52nd Cong., 1st sess., *Congressional Record* (7 July 1892): 5831.

CHAPTER III
THE STORY SPREADS

News about the events and happenings in Montana during late 1863 and early 1864 did not only affect the thousands of people living in the area at that time, but also spread to many others. As Thomas Dimsdale put it, "the news of a man's being hanged flies faster than any other intelligence in a Western country."¹ Newspapers spread information concerning vigilante executions of accused road agents throughout the United States, but the Civil War focused the nation's attention on the battlefields of the East rather than on events happening in the Far West. Nonetheless, the newspaper articles provided most Americans with their first knowledge about the Montana vigilance committee's activities. The newspapers, however, would not be the final word on this unusual event. Thomas J. Dimsdale published his 1866 book justifying the actions of the vigilance committee only two years after the initial series of hangings, providing the public with a neatly packaged narrative of a battle between good and evil. Dimsdale's account shaped the public's views on the events in Montana, and spread the Radical Republican viewpoint by justifying mob law in defense of morality. The story's spread would not be important though, had it not been accepted so overwhelmingly by those who read Dimsdale's explanation.

Understanding the manner in which newspapers disseminated the story of the vigilantes depends on knowing

¹Dimsdale, *Vigilantes of Montana*, 149.

how news traveled from one place to another in the West during the Civil War era. Generally speaking, the speed of communication depended on whether or not a telegraph line existed in the area. At the beginning of 1864, a continental telegraph line connected the East Coast with California, including towns such as Omaha, Denver, Salt Lake City, and Sacramento. A Denver editor attested to the telegraph's success by noting "when the line is in order, the news is always published the day of its date in New York and other eastern cities."² Of course, the news spread just as quickly in the other direction also. Unfortunately, newspapers could not always count on the line being in order, as shown by the frequent references in western papers. The *Sacramento Daily Union*, for example, commented on January 1, 1864: "The Eastern line was reported to be down east of Omaha last evening."³ Three weeks later, the *Union* again reported that "the Continental telegraph was interrupted last evening between Carson and Salt Lake."⁴ A Denver editor expressed the frustration caused by these lapses in service, writing that "the regularity with which interruptions to our telegraphic communications occur, just at times when the public are looking with the most eagerness for news, may not look exactly like design, but it nevertheless gives rise to sundry and divers invectives for which we hope Heaven will forgive us."⁵

²*Denver Rocky Mountain News*, 23 December 1863.

³*Sacramento Daily Union*, 1 January 1864.

⁴*Sacramento Daily Union*, 23 January 1864.

⁵*Denver Rocky Mountain News*, 23 July 1863.

Despite the advent of the telegraph, most news in the West still spread slowly, because the telegraph line only reached those areas directly along the primary route from east to west. The telegraph line did not reach from Virginia City to Helena, Montana until late September or early October in 1867.⁶ Certainly, it was not available around Bannack and Virginia City early in 1864. Consequently, news traveled at the speed of the Bannock Express, a stage coach linking Virginia City with Salt Lake City, Utah. During the summer, the trip from Virginia City to Salt Lake City usually took only four or five days, but during the winter the trip lasted much longer due to the difficulties associated with traveling through the snow-covered mountainous trails. The *Vedette* of Salt Lake City reported on February 5 that the Bannock Express arrived from Virginia City the previous evening, making the trip in thirteen days, and printed what is most likely to be the first newspaper report of the hangings by the vigilantes. A brief synopsis of the account in the *Vedette* was also transmitted by telegraph from Salt Lake City, as the *Sacramento Daily Union* (California) printed the news brief by the *Vedette* on the same date with their other telegraphic reports from the West. The report by telegraph, headlined "Thirteen Men Hung by a Vigilance Committee in Idaho Territory," simply stated that a vigilance committee was "ridding the country of the band of outlaws who have so long infested it," and reported that the committee contained over one thousand members. The brief news item then listed the names of those hanged, and the place of their execution,

⁶*Salt Lake City Telegraph*, 7 September 1867.

including only the thirteen men who had been hanged by the time their informants departed from Virginia City.⁷

The article by the *Vedette* contained a more detailed description of the hangings, and appeared in the Sacramento paper on February 15. All newspapers of the era utilized this method of copying articles from other newspapers as a source of news from other areas, providing their readers with a wider variety of articles and more detailed information than could be conveyed by the short telegraph reports. The *Vedette* reported that "Harry Plummer was arrested by the Vigilantes, and in his possession was found a paper giving a list of the whole band and a report of their proceedings."⁸ This claim indicates how untrustworthy nineteenth century newspaper reports can be, since no reputable contemporary sources, including Dimsdale, report the existence of this supposed list. In an era when news spread simply by word of mouth, reports frequently included rumors as well as facts, as shown by the assertion that vigilantes found any such list in Plummer's possession. The article also referred to the political sentiments of the men who were hanged, stating that "most if not all the culprits were avowed Secessionists."⁹ In pro-Union areas such as Utah and California, this would further enhance the reputation of the vigilance committee.

The *Sacramento Daily Union*, in the same edition, carried a letter from "Liberal," its special Salt Lake City correspondent. His letter, dated February 5, went into

⁷*Sacramento Daily Union*, 5 February 1864.

⁸*Sacramento Daily Union*, 15 February 1864.

⁹*Ibid.*

greater detail than the previous articles and provided the first evidence that questioned the guilt of hanging victims. The correspondent, titling his letter's initial section as "The Idaho Affair," first noted that many readers would remember Henry Plummer from his days as a sheriff in California, before he arrived in Montana. Though the writer claimed not to know him personally, he observed that "by some he is set down as a polished villain, and by others as a gentlemanly fellow." He also stated that "some persons intimately and closely acquainted with him, up to the hour of his execution, profess the greatest astonishment at the charge preferred against him," though the writer assumed that "the Vigilants no doubt had the evidence of his guilt."¹⁰ As for George Lane, executed at Virginia City, the writer claimed that one of his sources "knew Lane, and knew him to be in intimate relation with the best citizens of Virginia, and believes him innocent of the charge--of being Lieutenant of the organization--or having any complicity with the murderers."¹¹ Apparently, the suspicions shared by some of the citizens of Bannack and Virginia City found their way into these more detailed regional newspaper reports soon after the hangings, as evidenced by the Sacramento article.

The *Daily Union* continued covering the events in Montana, featuring updates on the situation from their Salt Lake City correspondent as later news arrived via the Bannock Express, and also copying articles from the *Salt Lake City Vedette*. Generally, the articles contained further updates

¹⁰Ibid.

¹¹Ibid.

on who had been hanged, with some details about the process of capturing and hanging the accused road agents. The paper also included a short description of Henry Plummer's life in California, copied from the *Aurora Times*.¹² Similarly, the newspaper also printed an extended biographical article about Boone Helm, who was also executed at Virginia City. The article, written by "a gentleman who knew him well," provided a description of several of his crimes committed before he reached the Virginia City area.¹³ This fairly extensive coverage of the hangings indicates the interest they generated in the West, where many of the miners and other citizens probably had been acquainted with, or had at least heard about, some of the men executed by the vigilantes.

The news reached Denver somewhat later than Salt Lake City, as the *Rocky Mountain News* included information about the vigilantes in its February 17 edition. A resident of Denver en route from Bannack reported that he "witnessed numerous cases of vigilance execution," which he shared with the newspaper. Though the editor noted that many of the eyewitness's descriptions "were related to us in more graphic phrases than we are to-day prepared to attempt to copy or construe," (making this one of the few papers to spare its readers the "graphic" descriptions if they were available) the article reported some particulars, such as Jack Gallagher's last request for a glass of whisky.¹⁴ After obtaining a copy of the February 15 *Salt Lake City Vedette* article, the Denver newspaper included a portion of it in its

¹²*Sacramento Daily Union*, 26 February 1864.

¹³*Sacramento Daily Union*, 19 March 1864.

¹⁴*Denver Rocky Mountain News*, 17 February 1864.

March 9 edition. Overall, the hangings received fairly widespread coverage in the West, with detailed reports included in some newspapers.

Information about the hangings soon spread to St. Louis. By February 23, the *St. Louis Democrat* included in its Salt Lake City correspondence an article mentioning the formation of the vigilance committee and listing a few names of the thirteen men who had been hanged. Apparently, the *Democrat* sent this information to Kansas City and Chicago via the telegraph, since the *Chicago Tribune* and the *Kansas City Journal of Commerce* included similar news releases with their telegraphic reports of the following day. Both named St. Louis as the origin of the report.¹⁵ These articles included the bare minimum of information, beginning with a statement about the existence of a "desperate band of highwaymen" between Salt Lake and the Bannock mines. The *Tribune* emphasized that law officers had been among those hanged, noting that the number included "Henry Plummer, their Captain, and the Sheriff of Bannock, and Stinking Water mines, Buckstone, Deputy Sheriff, and Geo. Lane, Deputy Sheriff of Virginia City."¹⁶ The Kansas City paper, in comparison, only mentioned Plummer by name, and did not report that he was the sheriff.

The *Kansas City Journal of Commerce* contained no more articles dedicated solely to the vigilantes, though a former resident of the city returned from the mines and

¹⁵*Chicago Tribune*, 24 February 1864; *Kansas City Journal of Commerce*, 24 February 1864.

¹⁶The listing of a man named Buckstone as a victim is apparently another example of erroneous reporting, as no other sources mentioned his name among those hanged.

offered a report in which he mentioned that "the people of Idaho have been cleaning out the scoundrels lately at a terrible rate. Over twenty have been hung--among them the Sheriff and Deputy Sheriff of Virginia City."¹⁷ The *Chicago Tribune*, on the other hand, printed two large front-page articles about the vigilance committee within ten days after the story broke. The first article, appearing on February 26, received five levels of headlines: "THE BANDITTI OF THE MINES. Vigilance Committees in the Gold Regions. AN ORGANIZED GANG OF MURDERERS AND ASSASSINS DETECTED. Thirteen Desperadoes Hung by the Citizens. A RADICAL CURE, ETC."¹⁸ The possible political significance of the reference to the vigilance committee as a "Radical" solution to the problem should not be ignored, particularly coming from a Radical Republican paper such as the *Tribune*.

Written by the paper's Salt Lake City correspondent on February 6 under the pseudonym Utah, the article described the recurrence of robberies on the trails, and fastened the blame primarily on Henry Plummer. The writer's opinion about the event can be seen in his statement that "the Vigilance Committee of Idaho have vindicated public justice by one of those popular uprisings, less justifiable because less necessary in your older communities," implying that in new frontier settlements, such action was justifiable.¹⁹ The writer also stated that "the citizens of Bannock have tried and hung Sheriff Plummer," when in reality, only a very few of the citizens had anything to do with the "trial" of

¹⁷*Kansas City Journal of Commerce*, 15 March 1864.

¹⁸*Chicago Tribune*, 26 February 1864.

¹⁹*Ibid.*

Plummer by the vigilance committee's executive committee. The misleading use of the terms "citizens" and "tried" could easily have led readers to believe that Plummer and the others were convicted in an open court, when in reality this was not the case at all.

In stark contrast to the *Chicago Tribune*, which ran a total of five articles mentioning the vigilantes including the two which rated front-page coverage, the *Daily Picayune* of New Orleans printed a total of only four lines regarding the vigilance committee. The news did not reach war-torn New Orleans until March 10, when the *Picayune* reported that "Highwaymen are plenty in Utah. They rob returning miners. A vigilance committee has been formed at Bannock who have hung twelve robbers and have seventy-two more on their list for similar treatment."²⁰ The editors apparently attempted to concisely summarize an article from another newspaper, perhaps one of the articles originating in Salt Lake City. This would help to explain why the article placed the highwaymen in Utah, rather than in Idaho. The lack of coverage of the event in New Orleans prompts a consideration of why some areas treated the incident with greater interest than others.

The evidence shows that the western papers carried more information about the events in Montana than papers farther east. The *Sacramento Daily Union* included many articles on the subject, while the *Chicago Tribune* also contained several stories. During the one-month period from early January to early February in 1864, the *Tribune* printed

²⁰*New Orleans Daily Picayune*, 15 March 1864.

at least five stories about the western states and territories, including an article titled "IDAHO. GLOWING ACCOUNTS FROM THE GOLD MINES."²¹ In addition to these articles, the paper also printed a map of "THE NEW GOLD REGIONS OF IDAHO" on the front page, showing routes leading to the new mines.²² Chicagoans caught gold fever, and their interest in the West showed in the amount of space they offered to the coverage of the Montana hangings. As a southern newspaper, the *New Orleans Picayune* gave much less attention to the hangings in Montana because of its greater distance from Montana. The political leanings of the newspapers' editors probably also affected the publicity given to the hangings by the respective papers. The *Tribune*, a strong supporter of Radical Republican policies, followed the story with great interest, but the *Picayune*, which was not a Republican paper, barely noticed the event.

The *New York Times*' coverage of the Montana lynchings fell midway between the extremes presented by the *Chicago Tribune* and the *New Orleans Picayune*, as might be expected since the *Times* represented the moderate wing of the Republican party. It provided some coverage, but certainly not as much as the *Tribune*. Only two articles mentioned the lynchings, and neither focused specifically on the events in Montana. The first article, an editorial appearing on March 19, referred to lynchings in California and Nevada as well as in Montana. The news spread to New York only through the files of western newspapers exchanged with the *Times*.

²¹*Chicago Tribune*, 24 January 1864.

²²*Chicago Tribune*, 28 January 1864.

Apparently, the news was not deemed important enough to be sent via telegraph to the major eastern cities. Again, the February 5 *Salt Lake City Vedette* article served as one of the sources for the coverage in the *Times*, showing how a single article could be relayed from one end of the country to the other. In this case, the article stated that "there is no doubt in the minds of the people of the guilt of the parties hung," spreading the false impression throughout the country that there were no doubters among the people of Bannack and Virginia City.²³ The *Times* also copied the March 15 article that appeared in the *Kansas City Journal of Commerce*, which mentioned the vigilantes in passing, as discussed earlier in this chapter.²⁴

News of the Montana vigilantes spread to the halls of Congress as well, where it played a part in the creation of Montana Territory. A bill had been introduced in the House of Representatives on December 14, 1863, proposing the division of Idaho into two territories. The geographical division created by the Rocky Mountains presented problems for government representatives from the eastern part who were trying to reach the territorial capital at Lewiston, on the western side of the mountains. Pleading his case in a letter to Secretary of State William Seward, Idaho's territorial Secretary and Acting Governor William B. Daniels proposed dividing the territory, because "it is much too large."²⁵

²³*New York Times*, 19 March 1864.

²⁴*New York Times*, 26 March 1864.

²⁵General Records of the Department of Justice, "Records Relating to the Appointment of Federal Judges, Attorneys, and Marshals for the Territory and State of Idaho 1861-1899," RG 60, National Archives.

Further proof of the difficulties of travel from one side of the mountains to the other is provided by the fact that news of the vigilante hangings did not reach Boise, on the western side of the Rockies, until March 5, only two weeks before it reached New York.²⁶

The actions of the vigilantes entered into the debate about the necessity for a division of the territory on March 17, 1864. Michigan Congressman Fernando Beaman referred to the lack of government in eastern Idaho, stating that "here are seventeen thousand people . . . without a government at all. I am informed by one of the judges of Idaho that not long since, under orders of a vigilance committee, the people hung twenty-one men."²⁷ Beaman used the formation of a vigilance committee as proof that citizens of eastern Idaho needed a more effective government, which he claimed would be provided by the creation of Montana. As Montana historian Harry W. Fritz said, "Henry Plummer and his cohorts . . . did not die in vain. They died for Montana."²⁸ The *New York Times* editorial on the lynchings in Montana provided support for this viewpoint. The article closed by stating that "a bill was introduced into Congress on Thursday of this week, providing for the division of the territory of Idaho into two territories, so that the administration of justice might be secured. We think it had better pass."²⁹

²⁶*Boise News*, 5 March 1864.

²⁷Congress, House, 38th Cong., 1st sess., *Congressional Globe* (17 March 1864): 1168.

²⁸Harry W. Fritz, "Montana Territory," in *Abraham Lincoln and the Western Territories*, ed. Ralph Y. McGinnis and Calvin N. Smith (Chicago: Nelson-Hall, 1994), 163.

²⁹*New York Times*, 19 March 1864.

While the events occurring in Montana during early 1864 received some notice in the press, the overall impact of this attention remained limited. Compared to the newspapers' daily coverage of the Civil War, these occasional articles about the vigilantes seem rather scanty. With the nation involved in a battle over the very essence of its existence, the hanging in a remote part of the West of several men reputed to be complete scoundrels did not cause much of a sensation. Though the *New York Times* wrote an editorial about the topic, it focused more on the governmental ramifications for Idaho Territory rather than the moral implications of the hangings. The nation did not pay much attention to the Montana lynchings until Thomas Dimsdale wrote his book retelling the events in dramatic fashion, acting as "a Victorian moralist setting down a lesson about Good and Evil and the eventual triumph of the former."³⁰ The influence of Dimsdale's work became apparent soon after it rolled off the publisher's printing press.

The citation of Dimsdale's *Vigilantes of Montana* by Mark Twain in *Roughing It*, a popular book published in 1871 describing the author's journey through the western territories, served as proof of how well-known Dimsdale's book had become, and at the same time made it all the more popular. Twain devoted two chapters of his book to the life and eventual demise of J. A. Slade, known as a "desperado" in the vernacular of the Old West. Though Slade was not among the first groups of men to be hanged by the vigilantes, he was executed in March 1864. Dimsdale described this

³⁰Mather and Boswell, *Hanging the Sheriff*, 101.

controversial man and his execution in one of the later chapters of his book, from which Twain extracted a passage more than six pages in length. Initially, Twain had hoped his brother Orion could supply details from their trip together, asking him in a letter to "sit down right away and torture your memory and write down in minute detail every fact and exploit in the desperado Slade's life that we heard on the Overland. . . . I want to make a telling chapter from it for the book."³¹ When Orion could not recall these details from their trip, however, Twain had to find another source.

Judging by the remarks Twain wrote about Dimsdale and his work, *The Vigilantes of Montana* more than compensated for Orion's failure to recall the details. Twain referred to the book as "thrilling," and "a bloodthirstily interesting little Montana book."³² He concluded that "Mr. Dimsdale's chapter is well worth reading, as a specimen of how the people of the frontier deal with criminals when the courts of law prove inefficient."³³ As for Dimsdale's statement that "from Fort Kearney, west, he [Slade] was feared a great deal more than the Almighty," Twain claimed that "for compactness, simplicity, and vigor of expression, I will 'back' that sentence against anything in literature."³⁴ This high praise from a popular writer in a book which soon became a classic undoubtedly helped establish Dimsdale's book as the authoritative appraisal of the vigilantes' activities,

³¹Martin B. Fried, "The Composition, Sources, and Popularity of Mark Twain's *Roughing It*" (Ph.D. diss., University of Chicago, 1951), 15.

³²Mark Twain, *Roughing It* (New York: Harper, 1871), 67, 73.

³³Ibid., 73.

³⁴Ibid., 73-74.

despite the fact that Dimsdale was not associated with the vigilantes himself, and was actually operating a private school in Virginia City during the winter of 1863-64.³⁵

Even before the publication of *Roughing It*, evidence exists pointing to the immediate impact of Dimsdale's work. The magazine *All the Year Round* published an article in 1868 titled "Vigilance in the Far West." Essentially, the author condensed Dimsdale's book into four pages, even mentioning Dimsdale and his book by name. The writer expressed the entire theme of the article when he stated that "it is true that the work of many generations has been done in a few months, and how? Not by applying forms of law in a community for which written law is a dead letter, but by maintaining right with the strong hands of honest men against the brute force of rascality."³⁶ The article perpetuated Dimsdale's theme of good versus evil, setting a trend which many other journal and magazine articles would follow over the years.

Journalists not only imitated the spirit of Dimsdale's writing, but in many cases they also copied it practically word for word. Unlike Mark Twain, however, they did not mention where they were getting their information, preferring to imply that the work was their own. An article from *Lippincott's Magazine* in 1883 provided an excellent example of this type of plagiaristic literature, with the bulk of the article consisting of snippets from *The*

³⁵Elizabeth Stevenson, *Figures in a Western Landscape: Men and Women of the Northern Rockies* (Baltimore; London: Johns Hopkins University Press, 1994), 64.

³⁶"Vigilance in the Far West," *All the Year Round*, 27 June 1868, 61.

Vigilantes of Montana.³⁷ From the date of the book's publication in 1866 into the early 1900s, occasional magazine articles addressed the issue of the Montana vigilantes, but always from the identical perspective provided by Dimsdale, using his work as a guide.³⁸ This repetition created the impression that many people had studied the topic and reached the same conclusion, when in reality the authors reached the same conclusion because they all based their work on the same source: Dimsdale.

Dimsdale's overwhelming impact even affected personal reminiscences written later in life by several members of the vigilante era. For example, Paul C. Phillips, editor of early Montana pioneer Granville Stuart's journals, chose to simply exclude Stuart's writings describing the vigilante movement. Observing the "close associations" which Stuart had with both Dimsdale and Nathaniel Langford, Phillips decided that although late in life Stuart wanted to retell the story of the vigilantes, "he was influenced . . . by the writings of his friends to such an extent that his own contribution added little to what had already been published."³⁹ Author Clyde Milner noted that because Dimsdale

³⁷Solomon Bulkley Griffin, "Five Graves in Montana," *Lippincott's Magazine* 32 (September 1883): 301-309.

³⁸C. Barbour, "Two Vigilance Committees," *Overland Monthly* [New Series] 10 (September 1887): 285-91; John W. Clampitt, "The Vigilantes of California, Idaho, and Montana," *Harper's New Monthly Magazine* 83 (1891): 442-51; C. P. Connolly, "The Story of Montana: The Reign of Lawlessness and its Overthrow by the Vigilantes - The Beginnings of Law and Order in Montana," *McClure's Magazine* 27 (August 1906): 346-61; Henry Gannett, "The Vigilantes of Montana," *Californian* 6 (1882): 363-67; Charles Michelson, "The Vigilantes of the West," *Munsey's Magazine* 25 (1901): 200-12.

³⁹Clyde A. Milner II, "The Shared Memory of Montana Pioneers," *Montana: The Magazine of Western History* 37 (Winter 1987): 8-9.

wrote and published his book only two years after the events they described, the book itself "became part of people's memories of those events."⁴⁰ In other words, people soon forgot whether their recollection of the lynchings came from their personal experience, or from Dimsdale's writings about their personal experience. Because of this phenomenon, Dimsdale, whether knowingly or not, permanently affected the way people remembered the hangings.

When Thomas Dimsdale wrote *The Vigilantes of Montana* as a series of newspaper articles in 1865, he intended for his arguments to justify the vigilance committee's actions. He shared a friendship with Sidney Edgerton and Wilbur Sanders, the two men primarily responsible for the formation of the vigilance committee, and presumably wanted to defend their participation in the vigilantes' actions, but his interest in the book ran deeper than mere friendship.⁴¹ Dimsdale, as editor of the *Montana Post*, showed himself to be a Radical Republican, joining Edgerton and Sanders in labeling all Democrats as rebels and disloyal to the Union cause. Dimsdale unabashedly stated that "there are but two parties now in this republic-- patriots and traitors."⁴² The implication was obvious: Republicans were the patriots, while Democrats played the role of traitors. For his loyal support of the Radical Republican cause, Dimsdale received the post of Superintendent of Public Education from Sidney Edgerton,

⁴⁰Ibid., 9.

⁴¹Stevenson, *Figures in a Western Landscape*, 65.

⁴²Malone and Roeder, *Montana: A History of Two Centuries*, 75.

governor of the new Montana Territory, on June 10, 1865.⁴³

Dimsdale, however, shared more with Edgerton and Sanders than just friendship and a similar political persuasion. As a Radical Republican, he likely also shared their view of government's role in the lives of citizens, defining government as coercion in support of morality. This explains why Dimsdale wrote the book as an epic battle between good and evil revolving around the issue of morality. From his Radical Republican perspective, by portraying morality as the overriding issue Dimsdale could justify the actions of the vigilantes as being within the confines of the law. According to Dimsdale, they were simply using coercion against an evil and immoral group, which he considered within the definition of the law. Dimsdale attempted to hide the political reasons behind Henry Plummer's execution by emphasizing his supposed role as "chief of the road agent band," thus transforming him into the epitome of evil who was "too wicked to die."⁴⁴

Almost as soon as Thomas Dimsdale completed his final chapter, the story he told spread and became accepted as the official version of the vigilance committee's activities in Montana during the territory's formative period.⁴⁵ This is important, because the book convinced readers that the vigilantes' actions were justified. It is ironic that the Radical view of the event was accepted by the

⁴³Stevenson, *Figures in a Western Landscape*, 65.

⁴⁴Dimsdale, *Vigilantes of Montana*, 148.

⁴⁵Perhaps this isn't surprising since the book's frontispiece modestly announced that it "form[ed] the only reliable work on the subject ever offered to the public."

mainstream of American popular opinion. Only recently have any historians questioned this assessment, and even now many still believe Dimsdale's explanation for the hangings. More importantly, however, the book spread the Radical Republican viewpoint justifying mob law in defense of morality. The Radical Republican appeal to higher law as a defense for their actions provided an explanation which most people were willing to accept. The concept of a government permitted to use violence in defense of moral good as espoused by Sidney Edgerton and Wilbur Sanders lives on in the writings of Thomas Dimsdale.

CONCLUSION

The different strands of this story of the Montana vigilantes are bound together by the overarching theme of law and order. One of the puzzling aspects of the vigilance committee's formation is the fact that leading members of Montana's Republican party were also the leaders of the vigilance movement, and composed the most accepted defense for the vigilance committee's actions. This is confusing, because traditionally the Republican party has been viewed as the party representing law and order during the political and constitutional battles of the Civil War era. The Republicans participated in actions which directly conflicted with the constitutional law of the land at the same time as they vigorously supported a war to defend the Constitution against the political theory of secession. This apparent contradiction is vividly demonstrated by Sidney Edgerton's and Wilbur Sanders' arguments against mob law during their respective Congressional terms.

By acknowledging the impact of the Radical Republicans' political motivations on the formation of and their support for the vigilance committee, however, the contradiction is eliminated. Edgerton, Sanders, and Dimsdale believed they were being consistent in their quest for law and order by leading the vigilance committee and by justifying its actions. Historians are unable to see the logic of the vigilantes' position because they do not share their 1860s Radical Republican viewpoint. This definition of government permitted Montana's Radicals to convince

themselves that the executions of Sheriff Plummer and the other accused road agents were actually the lawful actions of a forceful government acting to promote morality. Judging by the widespread acceptance of Thomas Dimsdale's justification of the vigilantes on precisely these grounds, many other people apparently shared his views in the years following the Civil War. The general acceptance and popularity of Dimsdale's work offers insight into the power of moral arguments in American society during this time.

Modern historians no longer see Dimsdale's book as a manifestation of his political views, preferring instead to interpret it simply as a factual account of the vigilantes. This is a mistake, because Thomas Dimsdale was a product of the strongly partisan era in which he lived. Politics suffused almost all aspects of his life, and the lives of a large number of his contemporaries during and after the Civil War. When these people read Dimsdale's book, it is very possible that they saw the political ramifications of the vigilance committee. By returning to a political interpretation of *The Vigilantes of Montana*, historians will be able more accurately to address the real reasons behind the lynchings.

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