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**Hard Time in the New Deal: Racial Formation and
The Cultures of Punishment in Texas and California in the 1930s**

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**Hard Time in the New Deal: Racial Formation and
The Cultures of Punishment in Texas and California in the 1930s**

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“Hard Time in the New Deal” bridges historiographies in criminal justice studies, working class history, and cultural histories of the Depression and New Deal to paint a detailed picture of life behind bars in the earliest years of the American welfare state. It analyzes the ways in which punishment structured racial and social hierarchies in a location where members of the multiracial working class worked, lived, fought, played, and sometimes protested in a period of massive political economic crisis. It argues that Depression-era prisons – as a last resort of state control – produced social inequality even within the egalitarian vision that the New Deal era promised. Because Texas and California State Prisons incarcerated poor black, white, Mexican, and Asian

and Native American inmates, they provide key sites to examine the practices of white supremacy and racial subordination among multiracial populations; processes through which racial antagonism generally, if incompletely, eclipsed class identities. Not only were prisoners divided against each other, but all criminals were situated against an image of white male citizenry ascendant in the New Deal years.

“Hard Time in the New Deal” explores the complex social and cultural worlds of punishment through the interwoven categories of race, class, gender, sexuality, and nation. It illuminates the multifaceted forms of social conflict animating every level of punishment to demonstrate how the state attempted to reproduce, and thus guarantee, social hierarchies in the midst of economic crisis. Drawing on a range of state- and prisoner-authored sources, “Hard Time in the New Deal” examines prison labor laws, sports, radio programming, as well as the organization of space, the distribution of labor, and the instrumentality of violence – to gain insight into the experience of prison as a contested site of social control.

Despite government officials’ seemingly limitless ability to shape life behind bars, Texas and California prisons remained beyond firm control through the Depression years. The social contradictions prisons attempted to contain – but continued to produce – would persist and expand through the rest of the twentieth century and into the twenty-first.

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Introduction:

Hard Time in the New Deal: Racial Formation and The Cultures of Punishment in Texas and California in the 1930s

The United States became the most powerful nation on earth over the course of the twentieth century, wielding imperial power and preaching humane liberalism across the globe. This is a story of how that imperial reach manifested itself at home, among the downtrodden and hard on their luck, on the vicious and the cruel. It is a story of crime and punishment, of racism and despair, of violence and redemption. It is a history of prisons, and the role punishment has played in shaping how people understand their relationships to their government, their place in the United States, the United States' place in the world, and their very senses of themselves. It traces changes and continuities in prison policy among key shifts in American life – in depression and war, in radical economic transformations, and as people traveled across the country and across the world looking for work. As the United States verged on becoming a world economic and military power, it did so in relation to its own populations, as well as to people and governments around the globe.

“Hard Time in the New Deal” examines the history of prisons in two particular states: Texas and California. Texas and California were states on the border of the nation, states that saw dynamic population growth in short periods of time, states where people who traveled diverse paths met, lived, loved, and fought. Many of the poorest of these found themselves living on the margins of society, on another sort of border

between legal and illicit economies. This was the borderland of criminal underworlds and skid rows, the place you might visit when stealing clothes or food seemed like a good way, or the only way, to get by. In the Depression years, more people than ever before found themselves there.

Others found themselves frustrated, aggravated, angry, or deranged. Tensions were high. If many blamed themselves rather than structural economic forces for their hard times, many also sought to protect shaken pride from assault by others. If someone gave a bad look, paid an insult, or stole something from their neighbor, their neighbor would not forget. They repaid the affront, and knives would flash and guns bark. In communities that had been neglected or maltreated by police – and these were black, brown, and poor white communities more than they were middle class ones – individuals often found personal recourse to be their only claim to justice. Men stabbed and killed; they assaulted, robbed, and raped. When the world showed little mercy, it seemed that there was little mercy to be had.

During the depression years, it was hard to know if people were just angrier and had less to eat, and therefore fought and stole more, or if policing became increasingly diligent, as state officers sought to assure citizens and themselves that the streets were under control, even if the economy wasn't. Even after the repeal of Prohibition, prison populations climbed. As pantries emptied and belts tightened, prison ledger books grew fat. As wallets thinned and clothes wore threadbare, prisons swelled. In Texas and California, the prison ledger books were glutted, resulting in two of the largest prison

systems in the nation.¹ But the actual numbers of people incarcerated tell only part of the story. The social perceptions of crime and punishment were every bit as meaningful as the actual numbers of people behind bars. On one side ran the fear of crime, on the other, broad concern for the down-and-out. Together, they reflected the illiberal free market and liberal interventionist sides of Depression-Era cultural politics.²

Texas and California prisons were filled with people from across the country and across the world, men and women who left worse prospects in other places, and came to these states in search of jobs and opportunities to make a better life. But instead of living their dream of American wealth, many migrants, urban and rural, domestic and international, found themselves locked in overcrowded cellblocks, laboring in a field under the blazing sun, or breaking rocks in a quarry in the pouring rain. *Prison Annual Reports* listed representatives from more than 67 countries behind bars in Texas and California. In addition to the many travelers' tales that one might hear in Texas and California prisons, the institutions were remarkable for other reasons. California's San Quentin was the largest penal institution in the nation, and it was also

¹ Texas and California consistently had among the highest numbers of new prisoners received each year, and consistently among the highest total numbers of prisoners in the nation. See United States Department of Commerce/ United States Bureau of the Census, *Prisoners in State and Federal Prisons and Reformatories* (Washington, D. C.: United States Government Printing Office). Examination of Reports from 1929 through 1937 show the uniformly high rank among Texas and California prison populations, for both inmates received and total populations.

² The term "liberal" has a problematic history in US politics, and is commonly taken to mean "progressive" and to imply a politics in which the government plays an interventionist role in social welfare, rather than assuming that free market capitalism will automatically aid the poor and manage itself. In the international context this laissez faire attitude is also known as "liberalism," or in the late twentieth and early twenty-first century, as "neoliberalism," I generally use the term as it was used in the 1930s and 40s United States – to describe a position held by advocates of a regulatory and interventionist state concerned with the success of capitalism as a means to secure prosperity for the greatest numbers of citizens. See Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (New York: Cambridge University Press, 2003) for a detailed examination of Chicago's Municipal Courts for the contradictions and benefits of liberalism in criminal justice, and law more broadly.

the most overcrowded; in 1933, its 6062 inmates were more than 90 percent over the institution's capacity. Numerically speaking (to say nothing of actual treatment), Texas was consistently among the most punitive states in the land, repeatedly receiving more new prisoners in its system each year than almost any other in the 1930s.³

When newly-convicted felons arrived behind the prison walls, they entered a world that only partially resembled the one they had left. This world was much smaller, much crueler, and much harsher. This world was both more violent and more boring, so boring that it could kill you. If many had traveled distances in search of work, they could find it in abundance on Texas prison farms. If these migrants had searched for a thriving economy, they would find a booming and highly competitive black market at California's Folsom and San Quentin. While prisoners in Texas were overworked, in California, massively overcrowded institutions led to a prison labor surplus, and prisoners were as likely to be numbed from inactivity as they were to be broken from labor. Regardless of the location, small cells grew tighter still and bunks in dormitories packed closer together as ever greater numbers of prisoners streamed into prison walls. Not even increased parole rates would keep pace with the ascending prison populations. In these alienating conditions, degrading work alternated with boredom, and the ever-present threat of violence came as much from other prisoners as from guards. Dirty looks meant even more here than they did on the outside.

³ In 1937, San Quentin had become the largest prison in the nation, and Texas received the largest number of new inmates in the country. United States Department of Commerce/ Bureau of the Census, *Prisoners in State and Federal Prisons and Reformatories, 1937: Statistics of Prisoners Received and Discharged During the Year for State and Federal Penal Institutions* (Washington, D. C.: United States Government Printing Office, 1939), 15

Like the outside, this world was segregated. Into men and women, whites and Negroes and Mexicans and Chinese and Japanese and Filipinos. Into the young and the old, the violent, the non-violent, the obedient and the recalcitrant. And even though the vast majority of these people were poor, the wealthy and the educated were distinguished from the uneducated and the impoverished.

Prisoners were segregated by race, by labor assignment, and by sex, and by what officials believed to be their rehabilitative potential. They were segregated in order to save them, or so they were told. Nonetheless, it quickly became apparent that white inmates generally enjoyed better opportunities, that light skin commonly indicated reformability to prison officials, and that dark skin was a strong indicator, in their eyes, of incorrigibility. African Americans would suffer the brunt of missed opportunities, bad food, and – even here – second class treatment. Perhaps especially here. No one, regardless of race, wanted to be at the bottom of the barrel, the lowest of the low. White prisoners often made clear that they were men, white men – that though they were prisoners, at least they weren't black or Mexican or Chinese. When they could control the terms of the discourse, white prisoners became, in many regards, even whiter than they had been before incarceration. On the outside, where they lived on social margins, they'd been called poor white trash, Okies, bums. But in the context of tightly packed, racially diverse prison systems, they were elevated to the apex of racial identities, and claimed their place with pride as they denigrated racial others. If white prisoners claimed their racial identities, so too did Black and Mexican inmates claim their own racial identities and masculinities, opposing their subordination to white

prisoners or state authorities in racial and gendered ways. But prison guards, hardworking poor whites themselves, frequently let prisoners of all races know who was boss, who superior to whom. Whips, clubs, rifles, and dogs made this clear.

American prisons were deliberately instructive institutions.⁴ Perhaps more than anything else, American prisons in the Depression were geared toward recreating social hierarchies as the “natural order” of society, within the context of a depression ameliorated by American liberalism. They were designed to teach criminals the errors of their ways, and to demonstrate to one and all that stern punishment was the inevitable result of breaking the law. They were designed to assure citizens that even in the midst of economic crisis, they and their property would be safe from threats. Punishment would instill respect for hard work and wage labor, and ensure that only those people deputized by the state should be able to use physical force – and only when necessary. The other most important lesson was to recreate and impose good order based on racial hierarchy.

“Hard Time in the New Deal” explores the complex social and cultural worlds of punishment through the imbricated categories of race, class, gender, sexuality, and nation, categories that expressed differences in social power. I analyze the multifaceted

⁴ On the pedagogical intent of penal institutions, see Michael Meranze, *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia, 1760-1835* (Chapel Hill: University of North Carolina Press, 1996); Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (New York: Cambridge University Press, 1992); Douglas Hay, et al, *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (London: Allen Lane, 1975); Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1979); Robert Olwell, *Masters, Slaves, and Subjects: The Culture of Power in the South Carolina Low Country, 1740-1790* (Ithaca: Cornell University Press, 1998); Louis P. Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865* (New York: Oxford University Press, 1989); David Garland, *Punishment and Modern Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990).

forms of social conflict intersecting at every level of punishment to demonstrate the many ways that state punishment attempted to reproduce, and thus guarantee, social hierarchies in the midst of massive economic crisis. As sites where diverse social forces and actors confronted and transformed each other, prisons were what Jorge A. González has called cultural fronts: sites in which manifold forms of social power and difference were expressed and politics were exposed. González extends Antonio Gramsci's notion of hegemony (a notion Gramsci articulated from a prison cell in the 1930s), and particularly Gramsci's usage of the martial metaphor of culture as a "war of position." González writes, "Cultural fronts can be understood...as sites or struggling 'arenas', versions of which are constructed through elaborate discursive work which traces the dynamics of situated conflicts and tensions." He continues, "Cultural fields are wide; they must be understood as complex structures of relations connecting institutions, agents, and practices...." These are not just the domain of experts or elites; rather they are made through "crucial dynamics with *social networks* in which non-specialists – families, folk, common people – read, interpret, interact with, and negotiate any specialized discursive production."⁵ I examine the cultures of punishment from this multi-leveled perspective, tracing the agonizing conflicts and contributions that went into the making of punishment. From the knowledge produced by expert penologists about criminals to the music prisoners made; from forced labor on prison farms to debates in the hallowed halls of Congress; from sexual violence in prison dormitories to

⁵ Jorge A. González, "Cultural Fronts: Towards a Dialogical Understanding of Contemporary Cultures," in James Lull, ed., *Culture in the Communication Age* (London and New York: Routledge, 2001), pp. 107-131, esp., 113, 111. Emphasis in original.

prison reform activists; from the conflicted meanings of history to the control of space: each waking moment and every tormented sleep expressed social conflict in the Depression years.

In the 1930s as in the present day, incarceration was one of the most forceful expressions of power available in society. Alongside execution, incarceration was the state's ultimate sanction, the most forceful expression of its will. Few will be surprised to learn that race played a key role in the cultures of punishment in the 1930s, and in determining who might find themselves behind bars. Nor should we be surprised to know that in a period when State and Federal governments took drastic measures to ensure the smooth functioning of racially-inflected capitalism, prisons played a supporting role in the endeavor by controlling the behavior of the working and unemployed poor. Simply put, there were very few wealthy people locked behind bars during the New Deal years. Though percentages of whites behind bars increased in the 1920s and 30s, (especially in the South), African Americans, ethnic Mexicans (regardless of citizenship status), and Asian Americans have long occupied prison cells in numbers grossly disproportionate to their percentage of the population. This remained true in the Depression, also.

In contrast to many studies of race and class relations in punishment, I do not just examine prisons as dominating institutions that contained a disproportionately large number of people of color, or a disproportionate percentage of the working or unemployed poor. Though both of these are true, I do not believe they go far enough to hold prison systems accountable for the ways they actively *produced*, rather than simply

reflected, social power. Instead, I argue that prisons and the law more generally served to *produce* and *reproduce* race, class, and gender formations, making hierarchies which they then patrolled and policed. By the using the term *formation* rather than *relation* to express racial, class, and gender interactions, I intend the following.⁶ First, race, class, and gender are part of historical processes, and their meanings change in relation to each other and over time. Second, the categories of social difference are *made* by people, institutions, and social structures through historical conflict. The categories are produced through a dialectical interaction between representational differences (of skin color, prestige or stigma at “good” and “bad” jobs, positive or unwanted sexualization) and material processes, including access to positive life chances or to the proximity of death.⁷ Finally, race, class, and gender power operate as intersecting axes, and in relation to each other. The terms of power within these categories are themselves aspects of social relations, and garner meaning and effect only in relation to oppositional terms. The terms of subordination and dominance are produced in the interactions. Thus there is no masculinity without femininity, no black without white, and rich and poor are devoid of meaning without the historically-specific social relationships through which they are known and understood. Human experience takes

⁶ My thoughts on racial formation draw most explicitly on the work of Michael Omi and Howard Winant, *Racial Formations in the United States, From the 1960s to the 1990s*, 2d ed. (New York: Routledge, 1994).

⁷ Economic geographer Ruth Wilson Gilmore has defined racism as differential access to life chances and the proximity of death. While by no means are race, class, and gender reducible, and though they operate by different means, I believe her insight does apply to each category of social difference.

place and gains meaning through the conjuncture of these different historically produced axes.⁸

Class formation implies a process and a historicity – a change over time. Though “Hard Time in the New Deal” generally follows a synchronic, thematic analysis rather than a diachronic narrative, I nevertheless situate the processes at work in a particular historical moment. In the 1930s, workers of all races confronted an economic crisis the likes of which none had ever seen, or even heard of. It was a crisis that shook many people’s faith in industrial capitalism, and moved large numbers to believe in the necessity of political movements for industrial democracy, be it in a mode captured by New Deal liberalism, or in a more radical form expressed in what Michael Denning has called the Cultural Front.⁹

Just as money in the Depression years was concentrated in few hands, so too was misery was unequally divided, and African Americans had the most of it. Dead-end jobs that had previously been known as “black work” began to look good to many whites, who drove African Americans from their employment and deeper into a poverty

⁸ Gayatri Spivak has suggested that subjectivity exists as a “knot” of different strands of discourse. While the terminology is a bit different, I also describe Texas and California prison inmates as living and working through the conjuncture (rather than the knots) of race, class, gender, sexuality, and nation. On Spivak’s knots of discourse, see her “Subaltern Studies: Deconstructing Historiography,” in Ranajit Guha, and Gayatri Chakravorty Spivak, eds., *Selected Subaltern Studies* (New York: Oxford University Press, 1988).

⁹ Michael Denning, *The Cultural Front: The Laboring of American Culture in the Twentieth Century* (New York: Verso, 1997). Denning’s usage of the term “Cultural Front” is different from Gonzalez’. Denning’s Cultural Front is a cultural and artistic movement and a politicized expression of working class politics in the Depression years, one part of the social conflict that animated the Depression years. Gonzalez uses the term to model processes of social conflict and cultural production. While this project draws on Gonzalez’ model throughout, it also uses Denning’s term and description of the cultural politics of the Depression. I believe that specific usage of the term below should be clear from the context of the discussion.

from which they would have to fight long and hard to emerge.¹⁰ But the experience of class outside the prison walls, always articulated with race and gender, was such that workers occasionally recognized commonalities with other workers. At times, these fostered cross racial alliances among the radical left, and forced much New Deal legislation from which all Americans benefited, even if they benefited unequally. But the relatively privileged workers who were less likely to question the sanctity of capitalism, were more likely to express their class positions in racially and nationally exclusive ways – as in the craft unionism popular with the American Federation of Labor. As I explore below, class formation in the 1930s expressed both cross-racial working class solidarity as well as exclusion, prospects that expressed two sides of New Deal cultural politics. Interrelated levels of class formation – structure, experience, and active engagement – animate my discussion of the cultures of punishment through the dissertation.¹¹

First and foremost, the vast majority of people behind bars in the 1930s were poor and unskilled workers. The numbers of people behind bars who listed their

¹⁰ Cheryl Lynn Greenberg, “*Or Does It Explode?*” *Black Harlem in the Great Depression* (New York: Oxford University Press, 1991), 7.

¹¹ Ira Katznelson, “Levels of Class Formation,” in Patrick Joyce, ed. *Class* (New York: Oxford University Press, 1995), 142–149. Ira Katznelson describes class formation as constituted of four levels. First, that of “objective” political economic relations, and particularly of people’s relationships to the means of production as owners or as workers. This, he says, is “experience-distant” and has nothing to do with individuals’ perception or experience of life. The second level is based on people’s specific locations and their more ground-level experience of capitalism and class, such as their experience of employment in a specific segment of a capitalist economy. Third in his description is their sense of “class,” their sense of community and shared interests with others in a similar political economic position and against others, in different class positions. Fourth is the level of action – when people act in class ways, in what they come to feel are their class interests.

occupation as “laborer” rose steadily across the 1930s.¹² Prisons were institutions designed to control people who threatened class relations, or who found ways to survive other than through wage labor. Theft, of course, was the most obvious of these, and property crimes made up the lion’s share of punished offenses in the Depression years. In 1937 more people in the United States were imprisoned for larceny alone than for all violent and sex crimes combined.¹³ In many cases, too, workers found themselves on the wrong side of the law at harvest time, convicted for vagrancy or another nebulous offense.¹⁴

As Michael Denning and others have demonstrated, the Depression created a moment of tremendous working class mobilization. Prisons, it seems, might have been particularly vibrant locations of proletarian politicization. One can argue that nowhere else was the protection of private property and enforcement of wage labor relations as the foundation of class relations revealed more clearly. The depression was perhaps an ideal moment for proletarian class formation in a multiracial state, where incarceration was a tool through which surplus members of the working class were contained and subjected to state managerial processes. In an ideal Marxian world, these would have

¹² *Biennial Reports* for California Prisons showed laborers vastly outweighing any other occupational category of prisoners. Numbers of laborers received at the prison grew from 343 in 1931 to 607 in 1937. See *Biennial Reports of the State Board of Prison Directors of the State of California* archived at the California State Library, Government Publications Room. In Texas, Laborers received increased from 595 in 1932 to 796 in 1938. See *Annual Reports of the Texas Prison Board, 1929--1945*, Archived at the Texas State Library.

¹³ United States Department of Commerce/ Bureau of the Census, *Prisoners in State and Federal Prisons and Reformatories, 1937: Statistics of Prisoners Received and Discharged During the Year for State and Federal Penal Institutions* (Washington, D. C.: United States Government Printing Office, 1939), 13.

¹⁴ On vagrancy laws and Mexican American laborers, see David Montejano, *Anglos and Mexicans in the Making of Texas, 1836—1986* (Austin: University of Texas Press, 1987), esp. 178, 201—207. Literature on vagrancy and African Americans is far more developed. See notes below for literature on the convict lease system.

been prime conditions for the development of a radical working class politics, to band together across racial lines and find allegiance in similar conditions of poverty and stern treatment at the hands of the powerful. But clearly, such was not the case.

But prisons, as harsh locations of state practice, thoroughly and immediately reproduced racial hierarchies. In the face of these disciplinary institutions and practices, prisoners relearned the modes and methods of racial hierarchy through the processes and promises of citizenship and social redemption, or social exclusion and racialized criminality. Rather than finding potential cross-racial prisoners' and working class alliances, white inmates frequently found greater promise in the wages of their whiteness than in cross racial alliances. White inmates collected their privileges through informal racial hierarchies subordinating black, Mexican, and Asian prisoners, or through formal mechanisms of retraining and the redemptive citizenship offered by the New Deal State. African American, Mexican, and Asian American prisoners were left fighting for the remaining positions of authority within the prison systems, and were frequently set at odds to one another through the cultures of punishment. In prison, racial differences were quite literally set in stone.

It is precisely for these reasons that incarceration is important for understanding the ways that this working class, multiracial population did, or did not, act in "class ways." That is, understanding cultures of punishment helps to assess the degree to which inmates engaged in collective action to better the conditions of their lives, and the degree to which they articulated a class and/or race analysis. Michael Denning compellingly traced labor unions, libraries, public schools, and state funding for artists

as key institutional components of the Cultural Front as a social movement. So too has Cindy Hahamovitch examined Farm Security Administration labor camps as sites of working class organization and movement.¹⁵ In marked contrast, prisons in the 1930s were central institutions for the dissolution of collective class behavior, and for the imposition of racialized, universal antagonism.

Michael Omi and Howard Winant have offered the powerful model of racial formation to link changes in racial difference to evolving political economy and state processes.¹⁶ According to their model, race is a set of symbolic representations written onto people's bodies, but these representations have material effects. There is no material foundation to race, rather, race is an invented group of traits that people emphasize or minimize in order to allocate power and material resources. While race is not "real" in any natural sense, race does emphatically have physical ramifications. That is to say, when people believe in race, it becomes what Emile Durkheim referred to as a *social fact*.¹⁷ The fact of race reveals itself all too powerfully when white supremacy looms large. In a white supremacist society, non-whites, however defined, are denied full access to food or education, to socially-esteemed, well-paying work, or to public recognition of dignity or value.¹⁸ The meanings of racial hierarchy were of

¹⁵ Denning, *The Cultural Front*, Cindy Hahamovitch, *The Fruits of Their Labor: Atlantic Coast Farmworkers and the Making of Migrant Poverty, 1870-1945* (Chapel Hill: University of North Carolina Press, 1997), 138—181.

¹⁶ Omi and Winant, *Racial Formations in the United States*.

¹⁷ Emile Durkheim, *The Rules of the Sociological Method*, ed. Steven Lukes, trans. W.D. Halls (New York: Free Press, 1982), esp. 50-59. Omi and Winant describe how social facts are frequently the product of social conflict, and can be changed over time and through political action, as with the Civil Rights movement.

¹⁸ David Theo Goldberg, among others, is correct in arguing that while race is a social construct, racism (mutable and historically contingent) is an all too real social force, producing what Frantz Fanon has

paramount importance to prison officials in the Depression years, and especially in Texas, and racial hierarchies were one of the fundamental lessons that Texas and California systems taught to their wards. Of course, racial difference and hierarchy were not solely the purview of the law – race and its pernicious effects are a matter of a thousand indignities and slights, or conversely, boosts and benefits – so slight as to be unrecognizable or so bald-faced as to seem nearly uncontested, and by no means were Texas and California prisoners without racial identities when they entered the prisons.¹⁹ Racial difference and power grew from the media, from the state, from policing, and from opportunities for jobs and housing and education. Racial differences became unthought differences, so fully hegemonic as to appear part and parcel of the natural world. Race came from how you were treated and how you treated others; race came from how you felt inside yourself, and the distance between self-consciousness and what other people thought they knew about you.

called the “Fact of Blackness.” Goldberg, ed, *Anatomy of Racism* (Minneapolis: University of Minnesota Press, 1990); Fanon, “The Fact of Blackness,” from *Black Skin, White Masks*, reproduced in *Anatomy of Racism*, 108—126. Like Thomas C. Holt, I attempt to trace the everyday forms of race making in conjunction with, and resulting from powerful state-authored racial marking. “Marking, Race-making, and the Writing of History,” *American Historical Review*, Vol. 100 No. 1, (Feb 1995): 1-20.

¹⁹ Michael Ingatieff cautions those Marxian and Foucauldian historians that the state cannot bear the full load of responsibility for moral sanctions behind crime and punishment, and his argument may be extended to the maintenance of racial difference. He argues that “it is a serious over-estimation of the role of the state to assume that its sanctioning powers were the exclusive source of the social division between criminal and respectable.” I agree, and thus assess the roles that white prisoners played in maintaining racial hierarchies, and the roles that citizens played in justifying punishment. However, like labor historian Brian Kelly, I argue that we are remiss to exonerate the state and capital from their roles in maintaining social divisions. Just as Kelly argues that scholars must “bring the employers back in” to explain racial divisions among Alabama coal miners in the early 20th century, I examine how states officially and formally reproduced racial difference and morally sanctioned punishment for crime. Michael Ingatieff, “State, Civil Society and Total Institution: A Critique of Recent Social Histories of Punishment,” in David Sugarman, ed., *Legality, Ideology, and the State* (London: Academic Press, 1983), 183—211; Brian Kelly, *Race, Class, and Power in Alabama Coalfields, 1908—21* (Urbana: University of Illinois Press, 2001).

Race and class formations were key terrains of social conflict; so too were gender and sexuality vitally important to the cultures of punishment. Though there were relatively few women behind bars when compared to men, the meanings of sexual difference shot through the hypermasculine worlds of the incarcerated. Male prisoners frequently and terrifyingly expressed power in gendered terms, using sexual violence to dominate each other. Prisoners claimed working class versions of violent manhood; but so too did prison officials invoke ideas and rewards of respectable, middle class masculinity, thus mobilizing manhood itself as a technique of social control.²⁰ When they offered better jobs to obedient prisoners, officials told the prisoners that they were ascending a ladder of honorable masculinity and self-control. And by controlling themselves, inmates were instructed, they came closer to the position of free and independent men, as they would one day be on the outside.

In addition to examining the interrelations of race, class, gender and nation, “Hard Time in the New Deal” examines multiracial systems and populations. Like Evelyn Nakano Glenn’s *Unequal Freedom*, which examines black-white relations in the South, Mexican-Anglo relations in the Southwest, and Asian-white relations in Hawaii, this project describes labor, gender, and citizenship as mutually constitutive, and argues

²⁰ Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917* (University of Chicago Press, 1995). Bederman periodized the movement of middle class notions of manhood from “manliness” to “masculinity” from 1880 to 1917, but this difference and class conflict continued beyond 1917 behind prison walls. This is perhaps an interesting parallel to the ways that the definitions of male sexuality (which George Chauncey described ending in the 1930s) remained active behind bars. Chauncey, *Gay New York: Gender, Urban Culture, and the Makings of the Gay Male World, 1890-1940* (New York: Basic Books, 1994).

that positions in political economy are ultimately productive of racial identities.²¹ Also like Glenn, this project tries to step outside of analysis that is based in a singular black-white racial binary. But while Glenn productively examines three different case studies, each ultimately functions within white-versus-other binary, and does not assess how a multiracial system functions in a single location. Her project does not assess how, in California, for example, Mexicans and Chinese related; nor can she examine how African Americans and Mexicans interacted in Texas. Indeed, rooted primarily in labor and social historical methodologies, and the sources these methodologies privilege, her study replicates white as the dominant term and racial otherness (black, Mexican, Japanese) in what are essentially three different but parallel oppositions. This was how labor markets functioned in the locations she examined. But an open question that is only now being pursued is whether this mode of analysis does not somehow preclude analysis of “lateral” interaction among racialized populations.

Some historians are beginning to answer the question by stepping into and redefining the realm of culture. George Lipsitz, George J. Sánchez, Matt Garcia, Robin D. G. Kelley, Luis Alvarez, Vijay Prashad and others have begun to examine how social interaction in sites of leisure and pleasure, away from stratified labor markets, allowed for lateral interaction among differently racialized groups as well as political expressions against the dominant racial and political economic order.²² As Lizabeth

²¹ Evelyn Nakano Glenn, *Unequal Freedom: How Race and Gender Shaped American Citizenship and Labor* (Cambridge, MA: Harvard University Press, 2002).

²² Matt Garcia, *A World of its Own: Race, Labor, and Citrus in the Making of Greater Los Angeles, 1900-1970* (Chapel Hill: University of North Carolina Press, 2001); George Lipsitz, *Time Passages: Collective Memory and American Popular Culture* (Minneapolis: University of Minnesota Press, 1990), Lipsitz,

Cohen's study of Depression-era Chicago demonstrates, movie theaters no less than union halls were sites of political formation.²³ These scholars are mining cultural spaces for how they express and indeed, redefine political movements.²⁴ Thus dance halls and radio stations allowed for cross racial contact, though racial power was still expressed in the interaction.²⁵ These cultural studies are the most developed analyses of cross-racial interaction, and have argued against only situating whites as primary actors, extending agency away from the white/non-white binaries, where non-whites protest against racial domination and for upward mobility and social inclusion. Instead, they extend agency and interpretation into interactions between non-white groups. The model used in Evelyn Nankao Glenn's *Unequal Freedom* cannot fully account for this possibility.

Rainbow at Midnight: Labor and Culture in the 1940s (Urbana: University of Illinois Press, 1994), Lipsitz, *Dangerous Crossroads: Popular Music, Postmodernism, and the Poetics of Place* (New York: Verso, 1994); Vijay Prashad, *Everybody was Kung Fu Fighting: Afro-Asian Connections and the Myth of Cultural Purity* (Boston: Beacon Press, 2001); Robin D. G. Kelley, *Race Rebels: Culture, Politics, and the Black Working Class* (New York: The Free Press, 1996), Luis Alberto Alvarez, "The Power of the Zoot: Race, Community, and Resistance in American Youth Culture, 1940—1945" (Ph.D. Dissertation, University of Texas at Austin, 2001); George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture and Identity in Chicano Los Angeles, 1900—1945* (New York: Oxford University Press, 1993).

²³ Lizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919—1939* (New York: Cambridge University Press, 1990).

²⁴ According to Lisa Lowe and David Lloyd, culture involves simultaneously work, pleasure, spirituality, "aesthetic" production, and reproduction within an ongoing process of historical transformation in contradiction with colonial and neocolonial capitalism. Culture, understood in this way, constitutes a site in which the reproduction of contemporary capitalist social relations may be continually contested. In such struggles, we find no less a redefinition of "the political," for in contradistinction to modern abstract divisions of society, the political has never been a discreet sphere of practice in the nation-state.... "Politics" must be grasped instead as always braided within "culture" and cultural practices.

From Lisa Lowe and David Lloyd, "Introduction," *The Politics of Culture in the Shadow of Capital*, eds. Lisa Lowe and David Lloyd (Durham and London: Duke University Press, 1997), 23, 26.

²⁵ Les Back, "X Amount of Sat Siri Akal!: Apache Indian, Reggae Music and Intermezzo Culture," in eds Aleksandra Ålund and Raoul Grandqvist, *Negotiating Identities: Essays on Immigration and Culture in Present Day Europe* (Amsterdam, Holland, and Atlanta, GA: Rodopi, 1995), 139–166.

Yet precisely when these studies are being made, as dancehalls and radio stations and theaters are being analyzed for cross-racial, non-white alliances, as well as non-white political movements that operate outside of traditional Marxist narratives of resistance through trade union organization, these locations of study and these studies themselves are being attacked as largely unimportant, as relatively insignificant when compared to locations and forms of labor.²⁶ More traditionally-minded Marxist historians have reasserted the primacy of material conditions, of labor markets, of politics as understood through the state and labor conditions, and have tried to return “culture” to its place, firmly subordinate and ancillary to the base of material, economic conditions. Melvyn Dubofsky has gone so far as to suggest that recent emphasis on “ethnicity, gender, and race” has become an unfortunate historiographical tendency, and that analysis of “the cultural rather than the political” has obscured the real subjects of critical history: trade union growth and decline and modes of capitalist domination.²⁷ Hide your transcripts all you want, Dubofsky might say. More important, one would believe, is mapping processes of domination and how workers challenged these base modes of power.

²⁶ Thanks to Davarian L. Baldwin for insight into this historiographical trend.

²⁷ Melvyn Dubofsky, *The State and Labor in Modern America* (Chapel Hill: University of North Carolina Press, 1994), xi. Eric Arnesen’s polemic against whiteness studies can also be seen as a salvo in this debate. While Arnesen makes many good points (among them the need to assess how “off-white” whites feel about their racial identities), he is too quick to dismiss all source materials he deems inappropriate as given to flights of historians’ imaginations while never questioning the materials or methods upon which his own work is based. According to his article, the sources he privileges need no historian’s interpretation, and their meanings (much less their selection and how they are used) are entirely self-evident. Arnesen, “Whiteness and the Historians’ Imagination,” *International Labor and Working-Class History*, No. 60, (Fall 2001): 3—32.

“Hard Time in the New Deal” critically draws on these different positions, in which cultural production allowed for oppositional practice and for occasionally transgressive slippage in racial definitions. It examines processes of racial, sexual, and class domination, and charts how inmates opposed the terms of their oppression with every means at their disposal. It traces how racial power was created by the state and by white inmates in these multiracial locations, and seized by black, Mexican, and Asian inmates.²⁸ It also traces how the ideologies and practices of white supremacy repeatedly and effectively sought to reduce myriad differences into binary oppositions, of white and Other – the same terms and difficulties that Evelyn Nakano Glenn documented.

However, in contrast to Evelyn Nakano Glenn’s model of three distinct but parallel binary hierarchies, racial dominance in multiracial Texas and California prisons seemed to take shape in a sort of wagon wheel. By this crude metaphor I mean that racial hierarchy operated through a process whereby different racial identities were positioned as different spokes in a wheel that were distinct from white (at the center of economic and state power) and also distinct from each other, ranging out toward the peripheries of social and economic prestige. While the spokes were positioned as distinct from each other, the spokes were themselves connected, or had the possibilities to connect, at rim of the wheel through the realm of culture, and most saliently, through

²⁸ Black, Mexican, and Asian inmates did not contest the *idea* of race in explicit ways. However, as I trace below, they did oppose the degraded meanings of their racialization, and they did so in raced ways. Thus black prisoners in Texas claimed pride and masculinity through the tradition of African American worksongs, just as Mexican Americans protested inferior treatment by staging protests *as* Mexican Americans at San Quentin. In each case, these prisoners took hold of the identities imposed upon them and made them a basis of cultural politics, which, in turn, transformed the prisons that held them.

music, celebrations, and through moments of mass protest. The cultural domain of music, athletics, and penal celebrations were ambivalent productions of the prison system. At this cultural level, the racial hierarchies were produced as well as destabilized, inverting and reinforcing social hierarchies, while allowing for racially hybrid cultural productions.

This is a study of how race was made in the New Deal era prisons, and how it evolved in relationship to class and gender. I argue that prisons operated as engines of identity formation in states with multiracial populations. Because prison officials sought precise ways to manage and identify their wards, they developed recordkeeping techniques to track criminals through the prison system. Because race was a principal division among people in the United States, officials were secure in their reliance on this set of invented differences as a form of knowledge and power over prison inmates. State officials in the heartland of the United States would brook no indeterminacy in racial identities of their populations; officials in Border States would be even surer to differentiate between their wards. In her recent study of twentieth-century immigration law, Mae M. Ngai correctly argues that ethnic and racial differences within the United States were part of global racial and national hierarchies, hierarchies which were confronted most clearly on the geographic edges of the nation.²⁹ The forms of recordkeeping replicated the symbolic dimensions of racial and national identities while ensuring that forms of punishment – and their material consequences – would manifest themselves in bodies that had been duly classified. Prisoners defined as white would

²⁹ Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004), 3.

benefit from new emphases on rehabilitation, industrial training, education, and frequently, better food, while black and Mexican prisoners were segregated into the worst housing and labor assignments, ate last if not least, and were reproduced as second or third class convicts, let alone as citizens of any sort. These racial categories masked over a variety of divisions among racial groups, homogenizing distinctions based on class, region, sexuality, occupation, and even recidivism and violent or non-violent criminal records.

This is also a study of the New Deal-era state, in a location where the state attempted absolute control. Yet close analysis reveals that “the state” as such was never a monolith. It further reveals that the state was made through the actions of prisoners and officers, at the same time that institutional forces indelibly shaped prisoners and keepers themselves. And while distinctions between “the state,” “civil society,” and assessments of prisoners’ self-directed actions are analytically useful, this study reveals the complex imbrications and overlaps among them. Nevertheless, it argues that criminal justice has played a significant role in producing (rather than merely replicating) racial difference and hierarchy, and through a close reading of the cultures of punishment, gauges the raced, classed, and gendered contours of New Deal social order.

The literature on the Depression and the New Deal is vast. My interests grow from social and cultural analyses more than they do from economic or political histories. Beside the liberal or conservative historiographies that either championed Roosevelt’s New Deal as savior of a destitute nation or maligned the New Deal as

damaging interventionism that hindered the invisible hand of the market, recent scholars have examined what the Depression and New Deal meant for the social and cultural order. Amidst the tumult, there has also been a New Left literature that critiques the New Deal for not going far enough in its interventions, and challenges the modes of power that the New Deal expressed as essentially conservative in their entrenchment of capitalism and business profitability. Scholars have produced studies of the New Deal at the highest levels of government,³⁰ they have traced origins of the Civil Rights movements and racial progressivism to its days,³¹ they described the political and social struggles for working class representation, state transformation, and protection from capital's excesses,³² while allowing capital to function within a more stable industrial democratic order, either by fooling the working classes or through their complicity.³³ Some have argued that the New Deal saw the thorough penetration of world capitalism into the state,³⁴ others have seen vibrant working class cultural fronts opposing

³⁰ Alan Brinkley, *The End of Reform: New Deal Liberalism in Recession and War* (New York: Vintage Books, 1995), David M. Kennedy, *Freedom From Fear: The American People in Depression and War, 1929-1945* (New York: Oxford University Press, 1999).

³¹ Harvard Sitkoff, *A New Deal for Blacks: The Emergence of Civil Rights as a National Issue: The Depression Decade* (New York: Oxford University Press, 1978), Patricia Sullivan, *Days of Hope: Race and Democracy in the New Deal* (Chapel Hill: University of North Carolina Press, 1996), Judy Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1995).

³² Christopher L. Tomlins, *The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880-1960* (New York: Cambridge University Press, 1985), Cohen, *Making a New Deal*, Melvin Dubofsky, *The State and Labor in Modern America* (Chapel Hill: University of Northern California Press, 1994), Stanley Vittoz, *New Deal Labor Policy and the American Industrial Economy* (Chapel Hill: University of North Carolina Press, 1987).

³³ Howard Zinn, ed, *New Deal Thought* (Indianapolis: Bobbs-Merrill, 1966), Steve Frasier, "The 'Labor Question'" in Steve Frasier and Gary Gerstle, eds., *The Rise and Fall of the New Deal Order, 1930—1980* (Princeton: Princeton University Press, 1989), 55—84.

³⁴ Antonio Negri, *The Labor of Dionysus: A Critique of the State-Form* (Minneapolis: University of Minnesota Press, 1994).

capitalism and racism in manifold forms,³⁵ and others still have traced the benefits and exclusions of New Deal social welfare measures and their inherent class and identity politics.³⁶ More recently, scholars writing in the tradition of the New Social History have described the social histories of migration and expulsion, and social protest running through the era, and racial, gendered, and sexual divisions between the industrial and the agricultural working classes.³⁷ Though a handful have described the meanings mass culture, gangster films, and the growth of the Federal Bureau of Investigation (thus incorporating some elements of the “cultural turn” into 1930s historiography), few if any have spoken about crime and punishment in the Depression years.³⁸ Among the many tomes on government in the Depression years, few deal with

³⁵ Robin D. G. Kelley, *Hammer and Hoe: Alabama Communists During the Great Depression* (Chapel Hill: University of North Carolina Press, 1990), Denning, *The Cultural Front*.

³⁶ Michael B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* (New York: BasicBooks, 1986), Gwendolyn Mink, *The Wages of Motherhood: Inequality in the Welfare State, 1917—1942* (Ithaca: Cornell University Press, 1995), Linda Gordon, *Pitied but not Entitled: Single Mothers and the History of Welfare* (Cambridge, MA: Harvard University Press, 1994), Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America* (New York: Oxford University Press, 2001).

³⁷ Devra Weber, *Dark Sweat, White Gold: California Farm Workers, Cotton, and the New Deal* (Berkeley: University of California Press, 1994), Hahamovitch, *The Fruits of their Labor*, Vicki L. Ruíz, *Cannery Women, Cannery Lives: Mexican Women, Unionization, and the California Food Processing Industry, 1930-1950* (Albuquerque: University of New Mexico Press, 1987), James N. Gregory, *American Exodus: The Dust Bowl Migration and Okie Culture in California* (New York: Oxford University Press, 1989), David G. Gutiérrez, *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity* (Berkeley: University of California Press, 1995), Sánchez, *Becoming Mexican American*, Greenberg, “*Or Does It Explode*,” Judy Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1995), George Chauncey, *Gay New York: Gender, Urban Culture, and the Makings of the Gay Male World, 1890-1940* (New York: Basic Books, 1994).

³⁸ Claire Bond Potter, *War on Crime: Bandits, G-Men, and the Politics of Mass Culture* (New Brunswick: Rutgers University Press, 1998), Jonathan Munby, *Public Enemies, Public Heroes: Screening the Gangster Film from Little Caesar to Touch of Evil* (Chicago: University of Chicago Press, 1999), Sean McCann, *Gumshoe America: Hard Boiled-Crime Fiction and the Rise and fall of New Deal Liberalism* (Durham: Duke University Press, 2000), Kenneth O’Reilly, “A New Deal for the FBI: The Roosevelt Administration, Crime Control, and National Security,” *Journal of American History*, Vol. 69 No. 3, (Dec 1982): 638—658, reproduced in Melvyn Dubofsky and Stephen Burwood, eds., *The Law and the New Deal* (New York: Garland Press, 1990), 136—156.

government's hardest edge. The actions, deliberations, and contradictions at the pinnacle of Washington's policy elite have received thorough attention. But institutions at the lowest levels, the officials who ran them and the people at the bottom of the New Deal Order have received far scantier attention. State authority in New Deal era prisons – institutions expressing state power in its most naked form – demand our attention. Death Row was no less a site of state-making than was the Governor's mansion.

Prisons are worth studying in their own right. Even if they are not understood as some sort of metaphor for broader society – as microcosmic, metaphorical, allegorical, as an extreme location of social relations – prisons nonetheless housed thousands upon thousands of people in the depression and war years. And each person who passed through their walls left families, friends, loved ones and co-workers behind. All of these people deserve to have their stories told, not just to shed light on the contradictions and social conflicts all Americans faced, but simply in and of themselves. From the perspective of the early 21st century, prisons have become increasingly important locations of social interaction and alienation, for prisoners and for their families, for the prison guards who find what they hope will be stable employment in this growth industry.

In addition to historiography on race in the Depression years, this dissertation contributes to the historiography of crime and punishment. Though literature on imprisonment has grown by leaps and bounds since the 1970s, it has hardly kept pace with the incarceration rates these years have seen. Nevertheless, literature has grown in response to both political developments and to scholarly innovations in history. But not

only have scholars contributed to the literature, so too have prisoners theorized the meaning of their incarceration.

Crime is not a natural category of life. While scholars have debated the matter for some years, a San Quentin prisoner made the matter clear for his reading public. Edwin Owen, a writer for the San Quentin inmate publication *The Bulletin*, penned an article in 1933 called "History of Crime."³⁹ Edwin Owen suggested that "crime" could only be understood through an essentially historically materialist framework – as a matter of social life and very much subject to historical and geographic change.

IT IS NOT *what* you do but how, when, and where you do it. No definition of crime can be made without first making that statement. ... Contrary to general belief, crime, in its commoner sense, is not the violation of an unalterable moral law, but it is the infraction of man-made statutes and has absolutely no connection with the moral code.

Crime is a transitory and elusive condition of thought that changes with the hours or with the crossing of a geographical border. It is a condition, or an evil, if you wish to call it such, that is forever changing its form. It sways with the times and is forever undulating with the moods of men.⁴⁰

Owen attempted to make sense of how people came to commit crimes in contemporary society. He drew on and surpassed a panoply of liberal-left arguments prevalent among early twentieth century penal reformers, implicitly critiquing the still-powerful position of Social Darwinists and Eugenicists that criminals were born, and not made.⁴¹

³⁹ Edwin Owen, "History of Crime," *The Bulletin*, January 10, 1933. 6-7. California State Library Government Publications Room.

⁴⁰ *Ibid.*

⁴¹ Liberal penologists seemed reticent to historicize definitions of crime, seeking environmental rather than biological explanations for crime. Estelle B. Freedman, *Their Sisters' Keepers: Women's Prison Reform in America, 1830-1930* (Ann Arbor: University of Michigan Press, 1981). W. E. B. Du Bois' 1899 *The Philadelphia Negro* was an ambivalent discussion of crime as emergent in conditions of historical specificity, and as a result of racism rather than biological inferiority, but which still resounded with the moral condemnation of his class and era. For commentary, see Oshinsky, *Worse than Slavery*,

“There are many causes for the condition we call crime: environment, war, financial depression, broken homes, laziness, temporary or partial insanity from stress, lack of *proper* education and the greed of Society itself.”⁴²

Using such critical skills – skills which were only being applied to criminal justice by academic leftists of the period – Owen wondered about how future generations would view the early twentieth century’s definitions of crime:

Not so long ago in our country it was a crime to be a witch, or to be possessed with a devil. Our ancestors burned such criminals at the stake. It mattered not if they were young and beautiful, nor if they were kind and tender-hearted; they were given a fair and impartial trial. If they had allowed themselves to become possessed with a devil they had committed a crime, and so—were burned at the stake. I wonder what our descendants 250 years from now will have to say about the heinous crimes of 1933.⁴³

The American liberal tradition from which Owen emerged and which he extended analyzed crime as socially-caused, rather than as individual moral failure, bred by a mixture of unhealthy environment, poverty, and social and racial dysfunction. However, the liberal tradition could not fully develop an analysis of how certain acts became defined as criminal, the question Owens put to his readers.⁴⁴ Owens took a radically historical view of crime, one taken up in later years by Marxian theorists and critics, part of a new radical criminological tradition.

Some six years after Owen wrote his commentary on the history of crime, Georg Rusche and Otto Kirchheimer, the Frankfurt School doyens of Marxian criminology,

96—99. For more of Du Bois’ thoughts on race and Southern criminal justice, see *Some Notes on Negro Crime, Particularly in Georgia* [1904].

⁴² Owen, "History of Crime," *The Bulletin*, January 10, 1933.

⁴³ Ibid.

⁴⁴ On that liberal tradition, see Willrich, *City of Courts*, and the reformers of Freedman’s *Their Sisters’ Keepers*.

located criminal justice and historically mutable definitions of crime as integrally related to political economy. In its barest terms, Rusche and Kirchheimer argued that prisons served the function of containing unproductive workers in a time of labor surplus, and that “crime” and “punishment” must be understood as operating independently of each other. Punishment has less to do with actual manifestations of acts defined as criminal than with political economic necessities and social fears.⁴⁵

The vast majority of work in the Marxian tradition that Rusche and Kirchheimer founded focuses on the function of punishment in periods of industrial capitalist formation, and argues that imprisonment effectively drives people into wage labor relationships and criminalizes all other ways to access the means of subsistence. This has been a theme since Karl Marx’s writings on the theft of wood, E. P. Thompson’s analysis of the Black Act, and Peter Linebaugh’s analysis of the British working class and punishment in *The London Hanged*.⁴⁶ While there is an influential tradition of

⁴⁵ Georg Rusche and Otto Kirchheimer, *Punishment and Social Structure* (New Brunswick: Transaction Publishers, 2003), originally published 1939. This project follows in Rusche and Kirchheimer’s tradition. However, unlike their work, I do not assert a mechanistic connection between labor markets and penal rates, and find other elements such as race, ethnicity, and nationality to be salient features of penal practice. Like Loïc Wacquant, I also stress the symbolic effects of incarceration in ways that Rusche and Kirchheimer do not account for. For Wacquant’s apt critique of Rusche and Kirchheimer, see “Deadly symbiosis: When ghetto and prison meet and mesh,” *Punishment and Society*, Vol. 3 No. 1, (1998): 121, note 3. For David Garland’s critique, see *Punishment and Modern Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990), 83—110.

⁴⁶ Linebaugh, *The London Hanged*, and “Karl Marx, the Theft of Wood, and Working Class Composition,” in David F. Greenberg, ed., *Crime and Capitalism: Readings in Marxist Criminology* (Philadelphia: Temple University Press, 1993), 100—121; Hay, et al, *Albion’s Fatal Tree*, E. P. Thompson, *Whigs and Hunters: The Origin of the Black Act* (New York: Pantheon Books, 1975); Dario Melossi, *The Prison and the Factory: Origins of the Penitentiary System*, trans. Glynis Cousin (London: Macmillan, 1981); Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Pantheon Books, 1978). Foucault’s highly influential *Discipline and Punish* transformed critical penal histories by rupturing the link with capitalism and anchoring the penitentiary’s rise instead to a more loosely defined ascendant modernity. While many are convinced of Foucault’s anti-Marxism, this is a misinterpretation. Foucault wrote but departed from the Marxian tradition in what I would argue is the best of that tradition; disenchanted with the French Communist

Marxian scholarship in European histories of punishment, it has also emerged powerfully in the United States, and found its fullest application in the Convict Lease period of the New South. Among these, Alex Lichtenstein's *Twice the Work of Free Labor* argues that in areas where there is a paucity of free labor and where capital is in short supply, capital will (almost mechanistically) develop unfree labor systems to suppress wages and to facilitate the spread of capitalism. Such was the case in the post-Emancipation South, where newly freed slaves were subject to racially-based labor hierarchies, to incarceration for newly criminalized offenses at the whim of local constables, and forced to labor in key industries such as coal mining and infrastructural development in railroad and road building. The convict lease system, according to Lichtenstein and the best of the convict lease scholars, occupied a hybrid position between an agricultural slave system and emergent industrial capitalism, while forcing freedpeople into either wage labor relationships, or ensuring their quiescence in that other form of post-emancipation unfree labor, debt peonage.⁴⁷ These histories have

Party's critique of homosexuality as bourgeois decadence, he sought other avenues of thought and philosophy. More recently, Michael Meranze has applied Foucauldian insights to the North American, northeastern context in *Laboratories of Virtue*.

⁴⁷ Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of the Convict Lease in the New South* (New York: Verso, 1996); Stanley B. Greenberg, *Race and State in Capitalist Development: Comparative Perspectives* (New Haven: Yale University Press, 1980). Other scholars allow for more political, gendered, and social processes than Lichtenstein does in his argument for the emergence of the convict lease, which at times flirts with economic reductionism. Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th-Century American South* (New York: Oxford University Press, 1984); Matthew J. Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Columbia: University of South Carolina Press, 1996); Martha A. Myers, *Race, Labor, and Punishment in the New South* (Columbus: Ohio State University Press, 1998); Karin A. Shapiro, *A New South Rebellion: The Battle Against Convict Labor in the Tennessee Coalfields, 1871-1896* (Chapel Hill: University of North Carolina Press, 1998); Robert David Ward and William Warren Rogers, *Convicts, Coal, and the Banner Mine Tragedy* (Tuscaloosa: University of Alabama Press, 1987); Milfred C. Fierce, *Slavery Revisited: Blacks and the Southern Convict Lease System, 1865—1933* (New York: Africana Studies Research Center, 1994); Mary Ellen Curtin, *Black Prisoners and their World: Alabama, 1865—1900*

found a common periodization, beginning with Reconstruction and ending with the convict lease itself. By using these years as a framework, these and other historians have fallen into a progressive narrative, whereby the dark ages of penal brutality are shed, thanks to enlightened government aware of its excesses, to be replaced by state-run, ostensibly humanitarian institutions.⁴⁸

David Rothman's *The Discovery of the Asylum* placed at least as much emphasis on turbulent political culture of the 1830s Northeast as it did on political economic transformation, but other scholars, like Michael S. Hindus, have been more focused on political economies. David M. Oshinsky's *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice*, like Rothman's *Discovery of the Asylum*, and, later, *Conscience and Convenience*, follows the political and racial contours of penal change across the 19th and 20th centuries, rather than being tied to a political economic narrative that ends as the convict lease does.⁴⁹

(Charlottesville: University Press of Virginia, 2000); Mark Colvin, *Penitentiaries, Reformatories, and Chain Gangs: Social Theory and the History of Punishment in Nineteenth-Century America* (New York: St. Martin's Press, 1997).

⁴⁸ These scholars are aware, of course, of the late 20th-century's prison building binge, and many try to avoid this progressive narrative. Others, however, do not, and are firmly wed to the progressive story through which prison administrations have understood themselves.

⁴⁹ David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston: Little, Brown, 1971), and Rothman, *Conscience and Convenience: The Asylum and its Alternatives in Progressive America*, rev. ed., (Hawthorne, NY: Walter de Gruyter, Inc, 2002 [1980]); David M. Oshinsky, *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996); Michael Stephen Hindus, *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina, 1767-1878* (Chapel Hill: University of North Carolina Press, 1980). Though Edgardo Rotman's essay "The Failure of Reform: 1865—1965," gives disproportionate emphasis to the northeast, it is also notable for its periodization, which follows more political than political economic transformations. The essay is in Norval Morris and David J. Rothman, eds., *The Oxford History of the Prison: The Practice of Punishment in Western Society* (New York: Oxford University Press, 1995), 151—177. On the federal prison system, see Paul W. Keve, *Prisons and the American Conscience: A History of U.S. Federal Corrections* (Carbondale: Southern Illinois University Press, 1991). For synthetic histories, see Blake McKelvey, *American Prisons: A History of Good Intentions* (Montclair, N.J.: Patterson Smith, 1977), Lawrence M. Friedman, *Crime and Punishment in*

While Marxian narratives have predominated in the convict lease period of the New South, there has been a dearth of histories of punishment in the middle years of the twentieth century. The majority of writings on punishment in these years have been from sociologists, penologists, or criminologists, or they have been based more a political historiography than Marxian. Save for rare examples, these historians have diminished class control and class formation from their stories.⁵⁰ This is likely due to the increased complexity of class relations in the middle years of the twentieth century, when the naked and brutal coercion of the convict lease no longer served as a primary mechanism of securing working class obedience. Indeed, as Progressive Era politics incorporated the Populist challenges of the late 19th century, and as expert efficiency came to rule in American political culture, capitalist reconfiguration meshed with new forms of government in regulatory practices. Confronted with World War, managerial expertise developed in the Progressive Era grew muscular and bureaucratized; and these organizational processes came to full fruition with the New Deal.⁵¹ In this period, expert-regulated programs meshed with new administrative capacities in what was to become the welfare state; an entity that sought to regulate precarious economic cycles

American History (New York: BasicBooks, 1993), Samuel Walker, *Popular Justice: A History of American Criminal Justice*, 2d ed. (New York: Oxford University Press, 1998).

⁵⁰ Barbara Jeanne Yaley's "Habits of Industry: Labor and Penal Policy in California, 1849-1940," (Ph.D. dissertation, University of California at Santa Cruz, 1980), thoroughly charts the transformation of penal practice across political economic periods, and the changing role of the state in each period of production, though she, too, at times imparts too much power to economic determinist transformation and not enough to local political, and indeed, sexual practices, in causing prison change. See Chapters 1, 2 and 4, below. David M. Oshinsky notes that during Prohibition and the Depression, poor whites increasingly joined African Americans at Parchman Farm, suggesting that Mississippi's prison was increasingly an institution of class, as well as racial control. *Worse Than Slavery*, 162—4.

⁵¹ Cindy Hahamovitch makes a similar argument in *The Fruits of their Labor*. See also Stephen Skowronek, *Building A New American State: The Expansion of National Administrative Capacities, 1877-1920* (New York: Cambridge University Press, 1982).

and to lessen the harshest edges of industrial capitalism.⁵² Few scholars writing from a Marxian tradition (however defined) have attempted to place punishment within the new conditions of state formation and industrial capitalism emergent in these years, to broach how punishment operated alongside the Civilian Conservation Corps, Social Security, and the National Labor Relations Board. This dissertation is a step in that direction. Like previous works, it argues that punishment changes with political economic transformation. The models of naked class control prevalent in other periods of study – such as the Convict Lease period of the New South or early modern England – were highly appropriate for a period of industrial capitalist coalescence. However, I argue that this model is inadequate for explaining how punishment worked when an industrial society structured in racial dominance confronted deep economic crisis. Complicating factors included a shift from an economy of industrial production to one of industrial consumption, governed by an increasingly interventionist welfare state, and overlaid with mass culture and media.⁵³ Naked force remained at the heart of penal discipline and class control, but was mitigated by more consent-oriented policies which maintained more subtle power relations than had previous periods. These grew from working class protest against competition from inmate labor, as well as the new pleasures of mass culture.

No less than other scholars, historians of punishment have been bound by their source material. Historians of slavery and the working classes have all faced these

⁵² For a notable exception in the British context, see David Garland, *Punishment and Welfare: A History of Penal Strategies* (Hants, England: Gower Publishing Company Ltd., 1985).

⁵³ Warren I. Susman, *Culture as History: The Transformation of American Society in the Twentieth Century* (New York: Pantheon Books, 1973).

difficulties, and this is an acutely troubling situation, given the clear biases and perspectives inherent to the prison authorities who recorded nearly all extant materials, and which makes finding inmates' perspectives highly difficult. This study is no different. Nevertheless, I use a broad array of sources to move beyond the progressive stories that prison officials told themselves and the legislators and Governors who paid their salaries.⁵⁴ Thus, in addition to *Annual Reports*, Prison Board Minute Books, Governors' correspondence, and Convict Ledgers, I analyze prisoners' letters, their worksongs, their newspaper articles, and their descriptions of sporting events. By using these alternative sources, and reading official sources against the grain, I move beyond political histories of punishment – narratives driven by changing administrations and organizations, and which aim to elucidate new penal strategies. Instead, I focus on more broadly conceived cultures of punishment – sports, radio programming, music, and the organization of space, and forms of labor, and the practices of violence – to gain insight into the conflict, experience and phenomenology of prison. This is a historiographical, but also a political point: Many historians have written very much from the top down, producing relatively antiseptic narratives of progress or decline with either reformers or political economies driving the narrative, and remaining free of the complexities and contradictions that characterized the Depression-era prisoners' lives. I take seriously their lasting pain and fleeting pleasures, and try to communicate them, as mediated through historical source materials. When readers understand the complex

⁵⁴ In his history of punishment in Vietnam, Peter Zinoman expressed similar methodological difficulties in reading official reports. *The Colonial Bastille: A History of Imprisonment in Vietnam, 1862-1940* (Berkeley: University of California Press, 2001), 8.

reality that prisoners faced and that incarceration generated, they are less likely, I hope, to favor draconian regimes today.

Texas and California pose numerous challenges in the history of punishment, for their similarities as well as their differences. Each state had quite different histories. By the 1930s, Texas had a long history of slavery, Tejano displacement, and Indian extermination, which led to a period of cotton sharecropping and tenant farming, and urbanization in the 1920s and 30s. Formal Jim Crow segregation in Texas was an ongoing process of racial demarcation and white attempts to dominate black and Mexican populations. California rapidly became what Frederick Engels referred to as a “market out of nothing,” when the discovery of gold in 1848 brought near instant industrialization to a region that had seen little other than locally-based agriculture for elite Californios and the Native Californians they had colonized some seventy years before.⁵⁵ The growth of Anglo American populations was matched only by the decimation of Native Californian populations, as California became a destination for a displaced global peasantry and mining proletariat from China and Mexico, England, France, and Chile, and for middle class whites from the eastern U.S. Within a matter of years, California became an important node of global capitalism, and its bullion contributed to the transformation and stabilization of global capital.⁵⁶ Each state, however, shared a border with Mexico; each state had a long history of racial conflict

⁵⁵ Susan Lee Johnson, *Roaring Camp: The Social World of the California Gold Rush* (New York: W.W. Norton, 2000), Lisbeth Haas, *Conquests and Historical Identities in California, 1769–1936* (Berkeley: University of California Press, 1995), Kevin Starr and Richard J. Orsi, eds., *Rooted in Barbarous Soil: People, Culture, and Community in Gold Rush California* (Berkeley: University of California Press, 2000).

⁵⁶ Eric Hobsbawm, *The Age of Capital, 1848–1875* (London: Weidenfeld and Nicolson, 1975).

and the stringent imposition of white supremacy; each state saw multiple populations mixing and confronting one another, and each state's multiracial populations eclipsed the foundational racial categories of the United States, which opposed black and white as the poles of racial hierarchy. The presence of Mexicans in Texas, and Chinese, Japanese, Mexicans and Filipinos in California meant that the foundational poles of racial identity and domination would have troubling third (or fourth) terms to complicate the ideologies that constantly sought to simplify all difference to strictly reducible and binary hierarchies. These confrontations resulted from the international dynamics of capital and labor, which fueled displacement from peripheral regions of global capital and migration to these borderland states.⁵⁷ Historians have only begun to mine the histories of Texas and California prisons for their importance in setting the

⁵⁷ On the global forces of capital and labor, see David Harvey, *Spaces of Capital: Toward a Critical Geography* (London: Routledge, 2001), and Harvey, *The Condition of Postmodernity: An Inquiry in the Origins of Cultural Change* (London: Blackwell, 1990); on capital, migration, and racial conflict in Texas, see Montejano, *Anglos and Mexicans in the Making of Texas*, Neil Foley, *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture* (Berkeley: University of California Press, 1997), Emilio Zamora, *The World of the Mexican Worker in Texas* (College Station: Texas A&M University Press, 1995), Emma Pérez, *The Decolonial Imaginary: Writing Chicanas Into History* (Bloomington: Indiana University Press, 1999), Alwyn Barr, *Black Texans: A History of African Americans in Texas, 1528-1995* (Norman: University of Oklahoma Press, 1996), Howard Beeth and Carey D. Wintz, eds., *Black Dixie: Afro-Texan History and Culture in Houston* (College Station: Texas A&M University Press, 1992). For a sampling of California immigration and labor histories in this period and before, see Sucheng Chan, *Asian Americans: An Interpretive History* (New York: Twayne Publishers, 1991), Ronald Takaki, *Strangers from a Different Shore: A History of Asian Americans* (New York: Penguin Books, 1989), Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: University of California Press, 1971), Vicki L. Ruíz, *Cannery Women, Cannery Lives: Mexican Women, Unionization, and the California Food Processing Industry, 1930-1950* (Albuquerque: University of New Mexico Press, 1987), Sánchez, *Becoming Mexican American*, Gutiérrez, *Walls and Mirrors*, Weber, *Dark Sweat, White Gold*, Carey McWilliams, *Factories in the Fields: The Story of Migratory Farm Labor in California* (Boston: Little Brown, 1939), Shirley Ann Wilson Moore, *To Place Our Deeds: The African American Community in Richmond, California, 1910-1963* (Berkeley: University of California Press, 2000), Lawrence B. de Graaf, Kevin Mulroy, and Quintard Taylor, eds., *Seeking El Dorado: African Americans in California* (Los Angeles: Autry Museum of Western Heritage; Seattle: University of Washington Press, 2001), Marilyn S. Johnson, *The Second Gold Rush: Oakland and the East Bay in World War II* (Berkeley: University of California Press, 1993), Gregory, *American Exodus*.

course of punishment in the United States, or for the light they shed on social conditions in each state.

The history of punishment in Texas and California is important for more contemporary reasons as well. Each state has been a leader in the late 20th century's prison-industrial complex, and in the massive incarceration of young people of color. In the early 21st century, with more than two million people behind bars and double that number on parole or probation, Texas and California have led the way in incarceration, and domestic and international migration patterns during and after the Second World War have only expanded the multiracial conflicts and dynamics each state saw since 1848. Nevertheless, there is a relative dearth of literature on punishment in the Southwest or the West, being firmly outweighed by the literature on the South or the Northeast.⁵⁸ My project seeks to fill this regional void, and along with some recent

⁵⁸ On California prison history see Milton Chernin, "Convict Road Work in California," (Ph.D. Thesis, University of California, 1937), Lloyd L. Voigt, *History of California State Correctional Administration, From 1930 to 1948* (San Francisco: NP, 1949), Barbara Jeanne Yaley, "Habits of Industry: Labor and Penal Policy in California, 1849-1940," (Ph.D. dissertation, University of California at Santa Cruz, 1980), Richard Morales, "History of the California Institute for Women, 1927-1960," (Ph.D. dissertation, UC Riverside, 1980), Shelley Bookspan, *A Germ of Goodness: The California State Prison System, 1851-1944* (Lincoln: University of Nebraska Press, 1991), Eric Cummins, *The Rise and Fall of California's Radical Prison Movement* (Stanford, CA: Stanford University Press, 1994), Theodore Hamm, *Rebel and a Cause: Caryl Chessman and the Politics of the Death Penalty in Postwar California, 1948-1974* (Berkeley: University of California Press, 2001). Texas prisons have seen a bit more scholarship. Donald R. Walker, *Penology for Profit: A History of the Texas Prison System* (College Station: Texas A&M University Press, 1988), Steve J. Martin and Sheldon Ekland-Olson, *Texas Prisons: The Walls Came Tumbling Down* (Austin: Texas Monthly Press, 1987), Ben M. Crouch and James W. Marquart, *An Appeal to Justice: Litigated Reform of Texas Prisons* (Austin: University of Texas Press, 2000), James W. Marquart, Sheldon Ekland-Olson, and Jonathan R. Sorensen, *The Rope, The Needle, and the Chair: Capital Punishment in Texas, 1923—1990* (Austin: University of Texas Press, 1994), Paul Lucko, "Prison Farms, Walls, and Society: Punishment and Politics in Texas, 1848—1910," (Ph.D. dissertation, University of Texas at Austin, 1999), Robert Reps Perkinson, "The Birth of the Texas Prison Empire, 1865—1915," (Ph.D. dissertation, Yale University, 2001). Rebecca McLennan's "Citizens and Criminals: The Rise of the American Carceral State, 1890—1940," (Ph.D. Dissertation, Columbia University, 1999) is among the most sophisticated recent historical works on punishment in the Northeast.

scholarship, believes it important to expand our regional analysis beyond its Deep South or Northeastern emphasis, especially by charting historical forms of managing racially diverse populations.⁵⁹ I propose a multi-sited analysis, rather than one that proposes singular origins for contemporary penalty.⁶⁰

As scholars have responded to the contemporary crisis in punishment and the exponential growth of American prison systems, they have produced new scholarship to make sense of the late 20th century prison building binge by linking it to advanced capitalism. With the development of flexible accumulation, as cultural geographer David Harvey identifies the mode of production dominant since the 1970s, prison populations have skyrocketed. The postindustrial moment in the United States has seen a hollowing of the urban core and a hardening of national borders, and increased retributive policies criminalizing urban youth of color and migrants trying to cross the US-Mexico border. Angela Y. Davis, Ruth Wilson Gilmore, Christian Parenti, and Loïc Wacquant among others have documented the massive carceral complexes designed to contain domestic racialized populations since the 1970's War on Crime, and the Reagan Era War on Drugs.⁶¹ Despite the sophistication, and indeed, the political

⁵⁹ Perkinson, "The Birth of the Texas Prison Empire," Introduction. Perkinson argues that the roots of contemporary punishment are to be found in the history of Texas prisons rather than in New York or Pennsylvania, whose Auburn and Philadelphia prison models are commonly examined as the historical foundation of American punishment. Perkinson is particularly correct in stressing the multiracial dynamics of incarceration, which have existed in Texas since the Civil War. However, I argue that contemporary prisons (themselves regionally specific) combine all the worst of both Texas' slave tradition and the cognitive death of the Philadelphia model's total isolation.

⁶⁰ Michael Steven Hindus' *Prison and Plantation* is another comparative study of the roots of penal practices.

⁶¹ Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (New York: Verso, 1999), Ruth Wilson Gilmore, "Globalisation and U.S. Prison Growth: from military Keynesianism to post-Keynesian militarism," *Race and Class* Vol. 40, No. 2/3, (1998): 171-188, Ruth Wilson Gilmore,

necessity of this literature, few have traced the history of punishment other than to the convict lease system, and have left the more recent past of the Welfare state, and the Fordist-Keynesian period of production unexplored.

* * *

“Hard Time in the New Deal” is organized into thematic rather than chronological chapters. Each chapter articulates how prisons functioned to produce and reproduce social hierarchies of race, class, gender, and nation in this turbulent period of American history. Each chapter examines how these complex state institutions – through the conflict and collusion of prisoners and officials – both managed and produced contradictions inherent to a capitalist economy in crisis and state formation attempting to manage that crisis. So doing, I offer a finely-textured social and cultural history of American punishment in the first years of the welfare state.

The first chapter lays out how racial and gendered hierarchies were formally reproduced in the prison. I analyze forms of recordkeeping as well as the spatial distribution of prisoners to demonstrate how prison officials categorized and tried to manage their wards racially and sexually. Yet prisoners’ sexuality constantly frustrated keepers, who attempted to control prisoners by the same spatial means they used to segregate prisoners by race. This tactic failed time and again to produce the sexually

"Terror Austerity Race Gender Excess Theater" in ed. Robert Gooding-Williams, *Reading Rodney King/Reading Urban Uprising* (New York: Routledge, 1993), 23-37, Angela Y. Davis, *The Angela Y. Davis Reader*, ed. Joy James (London: Blackwell, 1998), Loïc Wacquant, "Deadly symbiosis: When ghetto and prison meet and mesh," *Punishment and Society*, Vol. 3, No. 1, (1998): 95—143. See also the collected essays in David Garland's important edited volume *Mass Imprisonment: Social Causes and Consequences* (London: Sage Publications, 2001); Eric Schlosser, "The Prison-Industrial Complex," *The Atlantic Monthly*, Vol. 282 No. 6, December 1998.

austere, well-behaved prisoners that authorities desired. I posit here that Texas and California prisons in the 1930s were institutions of border formation – regulating racial, gendered, sexual, and national distinctions between people, and fixing a difference between criminals and citizens.

The second chapter examines the ways in which the broad social categories of citizen, prisoner, and immigrant took on racial and gendered hues. I trace the history of protest against prison labor as part of the long process of white male working class formation. From the 1830s through the Second World War, white men sought to define an ethno-racially exclusive and masculine citizenship, and claimed the prerogatives of their racial and gendered identities by trying to restrict the labor of immigrants and criminals, who they positioned as effeminate and racially-other in the process. By the eve of the Great Depression, the craft unionist element of the white male working class had effectively coalesced and, joined by concerned industrialists, was able to exert its class politics in federal legislation that excluded prisoners from participation in the industrial economy. Thus, while penal classificatory measures served to racially differentiate and produce hierarchy among inmates within the prison, at the level of the broader social formation, prisoners served as a degraded opposite to the class-based notions of white male industrial citizenship ascendant in the New Deal years.

Chapter Three is a history of labor in Texas and California prisons in the 1930s and 1940s. It examines the very different conditions for prisoners in each state, demonstrating the racial hierarchies reproduced in labor assignment, and in the punishment meted out to prisoners as they produced goods for the states that held them

captive. It argues that race, gender, and obedience were fundamental to the meanings of prisoners' labor, and that labor itself became a multidimensional front with different and conflictual meanings for all who participated. Gender, and particularly different definitions of masculinity, was central to prison officials' disciplinary intent, and to the ways that inmates opposed the terms of their labor. These conflicts were very different in each state. The material conditions of either inactivity or semi-industrial labor in overcrowded California prisons were drastically different from those in Texas' vast agricultural programs, and produced different disciplinary modes and kinds of oppositional culture.

Chapter Four examines the complex nature of power in each state's prison. While official notions of authority followed military models, where power flowed from top to bottom, this chapter demonstrates the imbricated nature of overt and covert hierarchies, where the ability to control the prison was fought over by wardens, guards, and prisoners themselves. Specific inmates in each system (Building Tenders in Texas and Con Bosses in California) exerted powerful force in each system, at times upsetting the power that guards felt they deserved, and at others acting as overseers maintaining a turbulent order in the prisons' productive economies. This chapter also examines how prisoners periodically contested degradation through work stoppages and riots, overcoming the universal alienation that incarceration generated and temporarily creating a sense of horizontal solidarity. I chart the complex and interwoven structures of overt and covert authority behind bars, analyzing the sexual, violent, bureaucratic and economic forms of authority that bound prisoners and keepers alike in webs of

power. As discussed in the first chapter, vocal and visibly homosexual prisoners, known as queens, repeatedly confounded prison officials, and their claiming of alternative sexualities resisted state regulation.

Chapters Five and Six examine what I identify as the popular culture of punishment. Penal innovations in entertainment and athletics minted in the progressive era grew to maturity with mass media and mass culture in the 1930s and 40s. A new understanding of the role of leisure in American life provided prisoners and officials with new disciplinary techniques of “entertainment” that both prisoners and keepers praised. While many scholars have alternately seen these developments as either “progress” or a diversion from the “real” goal of rehabilitation, I examine the popular culture of punishment as a discipline in itself, highly appropriate to New Deal America and Keynesian consumption-based economics. Chapter Five examines *Thirty Minutes Behind the Walls*, a radio show broadcast from Huntsville Prison to inmates and “free world” listeners alike. Since at least the eighteenth century’s stockades and gallows, prisoners have been put on display to instruct the public in the majesty of the law and the dangers of its violation. But far from a display of inmates’ suffering, this new spectacle of the condemned was meant to be good fun for inmate performers and the listening public itself. On its third anniversary, when broadcasters asked listeners to send postcards describing their favorite songs and performers, listeners sent two hundred and twenty thousand responses from throughout and beyond North America. State pedagogy – and especially in the sonic creation of racial hierarchy – resounded in every prisoner interview and in each song played, but it was also simultaneously

undermined by prisoners' music on the show, which was itself deeply racially hybrid. The multiracial, working-class music that prisoners played was the show's very appeal.

Chapter Six extends analysis of popular culture into the realm of prison athletics and celebrations. It examines baseball leagues, the Texas prison rodeo, California's "Little Olympics" track and field days, women's dances, and the 4th of July and Juneteenth for how each of these events presented a social hierarchy of white supremacy and racial subordination through gendered celebrations of the sporting life. Prisoners and keepers agreed on the utility of athletics: for enjoyment, for exercise, and for the lessons that they taught – one always had to follow the rules, obey authority, and stay in the lines to adhere to the tenets of good sportsmanship. These were intended as lessons that prisons should follow on release into the world of manly citizenship based increasingly on leisure culture and consumption, and less on production. Like *Thirty Minutes Behind the Walls*, these events were also public relations campaigns on behalf of the prison systems themselves.

Throughout "Hard Time in the New Deal," I examine how state government in Texas and California attempted to organize social hierarchies of race, class, gender, and nation in institutions that aimed for total control in a period of economic crisis and the growth of the New Deal state. Yet prisons in Texas and California remained riddled with conflict. The racial and class contradictions each state's prison attempted to contain – but continued to produce – would not only persist, but expand, through the rest of the twentieth century. In the late twentieth century's prison-industrial complex, Texas and California led the nation in the paired criminalization of immigrants and

urban, non-white populations in a period of postindustrial crisis. Understanding the connections between criminal justice, race, class, gender formation and economic crisis is more important than ever before. By examining the cultures of punishment in the first years of the New Deal order, perhaps we may more clearly see the prison's role in American life in the years of the welfare state's demise.

Chapter 1

Of Bodies and Borders: Prisons as Engines of Identity Formation in Texas and California

It has almost become a truism for writers to describe entering prison as an experience of disembodiment and disorientation. In Robert Joyce Tasker's 1928 memoir *Grimhaven*, the narrator described his entry into California's San Quentin State Penitentiary in precisely these terms:

The official jerked his thumb towards a door. The very motion gave me the key to my position. I was merchandise, duly received and acknowledged. Henceforth I was to be an animated piece of baggage. And for that I was grateful, for it fitted with the least effort into my mood.

The room into which I now passed was small--a mere recording office for the registry of new-comers. A convict rose from behind a desk and came to the counter that separated us. He asked my name, nativity, and age; later, my crime, and the county from which I was sent.¹

After a bath, strip search, and a shoddy haircut and shave, Tasker narrated his physical disorientation, a sense of losing his place. "Somewhere in the bowels of the building behind me I had become confused in my bearings, and never again could I think of east other than as south. The whole institution had manoeuvred (sic) a quarter turn."²

David Lamson described similar feelings of detachment and disembodiment in *We Who Are About to Die*, his 1935 prison memoirs. As he described physically *entering* San Quentin, and being discursively *entered* into its recordkeeping apparatus,

¹ Robert Joyce Tasker, *Grimhaven* (New York and London: Alfred A. Knopf, 1928), 6-7.

Lamson switched from the first person to the third. Wittingly or no, he signaled a description in which he effectively saw himself through the eyes of the other prisoners watching him (as he would soon be watching others), and the eyes of the authority surrounding him.

The convict clerk produces a pen and a bottle of India ink and prints a number on the [clothing] – 54761. He sprawls the same number on the undershirt; the drawers; each sock; inside the shoes. That number is the man's laundry mark. It is his own mark. It is himself. For as long as he is in this prison, he is 54761.... So far as San Quentin is concerned he will be Fifty-four seven sixty-one until he dies.

Lamson continued, describing that the convict enters a room full of typewriters. A young man in grey shirt and trousers

runs a printed form into a typewriter and starts asking the man questions, typing the answers on the printed form. There are a great many questions—the familiar where and when born, home address, mothers' name, address, age, birthplace, father's name, address, birthplace; and on down the line to education, religion, crime charged, plea, previous arrests or convictions.... He lights a cigarette, and tilts his head and squints his eyes against the smoke. These things give him an air of incurious detachment. It is as if he said, "I'm not asking these very personal questions out of curiosity, you know. I don't give a damn, really; I just work here."

The man finds it much easier to answer the questions because of this attitude on the part of the clerk...

Later, the new man will be brought back again to the fingerprint room in the rear of the offices, where he will be printed and have his Bertillion measurements taken. Later, he will be photographed again, this time in prison garb and with his hair clipped short. Later, he will be taken to the hospital for a medical examination.

But for the present, his initiation...is completed. He has become a convict, following the road that all men follow in becoming convicts....³

² Ibid, 12.

³ David Lamson, *We Who Are About to Die: Prison As Seen By A Condemned Man* (New York: Charles Scribner's Sons, 1935), 29-33.

Texas prisoner Benton Layman described a similar dislocation when he first arrived in Huntsville: "Made me kind of numb. It seemed like a dream—a bad dream."⁴ Harry W. Jamison explained the feeling to prison investigators at San Quentin: "[W]hen I walked through these gates here it was like an empty feeling in your stomach."⁵ Terrence Bramlett described the feeling in equally corporeal terms: "It took all the heart out of me...Kind of stunned me, I guess... I didn't come to my senses until I'd been in prison a while."⁶ Texas prisoner Andrew George described that his penal initiation "burned into my mind as with a red-hot iron, never to be erased," part of a process that sociologist Irving Goffman aptly described as "mortification."⁷

Black prisoners' descriptions in Texas blended images of a slave ship and a ferry crossing the river Styx, when they sang about or described Transfer Agent Bud Russel and his truck, Black Annie, picking up inmates from country jails to bring them to Huntsville. One prisoner recalled

Everybody knew when they were going to pick up the chains.... The news was spread that Bud Russel was pickin' up the chains, because it was something to see.... He would have the guards lined up with machine guns. The convicts would come out chained by the ankles and by the necks and by the hands.

⁴ *Thirty Minutes Behind the Walls*, Program 140, Nov 27, 1940. Center for American History, University of Texas at Austin.

⁵ Harry W. Jamison testimony, Jan 4 1944. Volume X: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, p. 1935. California State Archives, Earl Warren Papers -- Governor's Committee on Penal Affairs -- 1943-44. F3640:965.

⁶ *Thirty Minutes Behind the Walls*, Program 150, Feb 5, 1941.

⁷ Andrew L. George, *The Texas Convict: The Thrilling and Terrible Experiences of a Texas Boy* (Austin: Ben C. Jones and Co. Printers, 1893), 139. Cited by Robert Reys Perkinson, "The Birth of the Texas Prison Empire, 1865—1915" (Ph.D. Dissertation, Yale University, 2001), 437-8. On mortification and the degradation rituals upon entering institutions, see Irving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and other Inmates* (New York Penguin, 1961), esp. 30—40.

Come out in what we call a “Chinese shuffle.” ...I never knew I’d be a victim of the same circumstances.⁸

Though seeing prisoners chained together in this black urban space was a spectacle for its residents – machine guns as much for the audience as for prisoners – as a young man, this prisoner had little reason to identify with the convicts themselves, whom he marked as *Chinese*, with the tropes of an alternative racial identity. Entering the prison was a ritual of seeing and being seen, becoming a spectacle in someone else’s – or the state’s – vision.

After a while, though, inmates like Lamson, Jamison, Layman and Bramlett learned their way around. They oriented themselves in the everyday world that the prison created.⁹ They came to know their inmate numbers, their bodies, and their locations in the political, racial, and sexual economy of the prisons that kept them. This chapter traces how, in the context of Texas and California State Prison Systems, inmates once again learned their racial and sexual identities and had their bodies reaffirmed (or undermined) by the state and the rule of law.

If the experience of dislocation and disembodiment was common for these and other prisoners, the places from which Texas and California prisoners arrived from were more varied. Indeed, Texas and California were borderland states on the edges of the nation. As such, both states were points of arrival, departure, and transit for the diverse peoples traveling in search for work and stability in the New Deal years. Their travels

⁸ Quoted in Bruce Jackson, *Wake Up Dead Man: Afro-American Worksongs from Texas Prisons*, 8

⁹ Thomas C. Holt, “Marking, Race-making, and the Writing of History,” *American Historical Review*, Vol. 100, No. 1, Feb 1995, 1-20.

brought them across international boundaries, as well as the not-so-distant, but still jolting move from rural districts to urban industrial centers.

I argue that state prisons in Texas and California were engines of identity formation among multiple diasporic populations, setting racial and gendered identities with the rule of law. Prison officials had no use for unstable identities; on the contrary, fixing prisoners' bodies – in text and in space – was a foundational disciplinary technology in the maintenance of state order in a period of political economic crisis. In this chapter, I aim to make clear the interdependent and ideological bases of both the construction and mapping of bodies, as well as construction and mapping of carceral geographies.¹⁰ From the Progressive Era through the New Deal years, Southern state officials imported the “scientific” race management strategies developed in Jim Crow law to regulate racial contact in public spaces to combat the fear that the convict lease system's universal degradation had eliminated racial distinctions between whites and blacks. Penal classification programs, rooted in racial hierarchies, attempted to instill a modern racial regime that would protect the honor of working class whites, while continually denigrating working class African Americans, Asian Americans, and Latinos. In California, the policy was less state-driven than it was promoted by white prisoners themselves, as a matter of “custom” rather than law.¹¹ By the time of the

¹⁰ Below, I draw primarily on Michael Omi and Howard Winant for theorization of racial formation as a combination of representational/symbolic differences that have material ramifications, and which are elements of social conflict with the state as a key site in defining racial difference and identity. Though prisoners' efforts in rearticulating racial formations were ever present, and figure more prominently in the broader dissertation, they are largely beyond the scope of the current chapter. *Racial Formations in the United States from the 1960s to the 1990s* (London: Routledge, 1994).

¹¹ Grace Elizabeth Hale's description of Jim Crow law and segregation is a powerful summation: Jim Crow presented a "modern social order in which this [racial] difference would instead be continually

Second World War, California reformers tried to eliminate racial segregation in favor of a liberal racial regime.

I take James Scott's *Seeing Like A State* as a point of departure. Scott theorizes that states simplify complex social spaces and reduce diffracted subjectivities in order to render populations arrived from across the globe "legible" and thus governable.¹² Here, I am interested in the re-creation and management of racial and sexual identities, as well as the state spaces that validated imposed difference. To use space as a metaphor as well as an analytical category, I also draw on Volume I of Karl Marx's *Capital*. In its final chapters, Marx described the enclosure movement in terms of land transformed by law into commodified space: we might profitably consider state-authored racial categorization as a sort of enclosure movement of multifaceted identities in these borderland regions, as well as part of maintaining a working class divided against itself.¹³

Further, David Theo Goldberg's *The Racial State* instructs us that "central to the sorts of racial constitution that have centrally defined modernity is the power to exclude and by extension to include in racially ordered terms, to dominate through the power to

performed. For whites, this performance, in turn, made reality conform to the script. African Americans were inferior because they were excluded from the white spaces of the franchise, the jury, and political officeholding. They were inferior because they attended inferior schools and held inferior jobs. As the right to consume became central to changing conceptions of American citizenship and as some educated African Americans became professionals despite discrimination and oppression, African Americans were also and perhaps most publicly inferior because they sat in inferior waiting rooms, used inferior restrooms, sat in inferior cars or seats, or just stood." *Making Whiteness: The Culture of Segregation in the South, 1890—1940* (New York: Vintage Books, 1998), 284.

¹² James C. Scott, *Seeing Like A State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998). Like Scott, I critically draw on Michel Foucault's theories of subject formation in penal contexts. But while Foucault paid scant attention to race as a category of analysis, I take it as central to the effects of criminal justice in the United States. *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books 1979).

categorize differentially and hierarchically, *to set aside by setting apart*."¹⁴ The spatial metaphors here are important. Like Michael Keith, L  c Wacquant, Kendrick Ian Grandison, and Christian Parenti, Goldberg demonstrates how the management of space has been a central component of state power and racial formation.¹⁵ But in addition to the racial differentiation and regulation at work in these state institutions, so too were sexed and sexual differences regulated. Sexuality, however, proved to be a more elusive category of identity for the state to control.

Below, I analyze how the racial state saw its prisoners through representational technologies, and recreated them in the specific context of the California and Texas borderlands from 1929 to 1945. Of course, prison systems do not stand in isolation, and cannot bear the sole responsibility of inventing difference or racism more broadly. However, I am convinced that practices of differentiation within prisons can be understood as performative in making and embodying prisoners' identities, and that these categories are significant beyond the confines of the prison walls.¹⁶ By *performative*, I mean that as state institutions, prisons took received categories and bodies, and invigorated or degraded them with powerful institutional authority.

¹³ Karl Marx, *Capital*, Volume I. trans Ben Fowkes (New York: Penguin Classics, 1990), Chapters 26-32.

¹⁴ David Theo Goldberg, *The Racial State* (Malden, MA: Blackwell, 2002), 9. Emphasis added.

¹⁵ Michael Keith, "From Punishment to Discipline?: Racism, Racialization, and the Policing of Social Control," in eds. Keith and Cross, *Racism, the City, and the State* (New York: Routledge, 1993), 193–209; L  c Wacquant, "From Slavery to Mass Incarceration" *New Left Review*, (January-February 2002): 41–60; Kendrick Ian Grandison, "Negotiated Space: The Black College campus as a Cultural Record of Postbellum America," *American Quarterly*, Vol. 51 No. 3, (Sept 1999): 529–579; Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (New York: Verso, 1999).

¹⁶ Sociologist Pierre Bourdieu suggests that the law is a productive field in which discourses are set and rendered ideologically coherent. Governmental legislation and regulation do not simply *describe* a preexisting social and material realities, but rather they are *constituent* forces in a process of producing and constantly reproducing the realities they claim to describe. I follow this theme throughout this paper.

The first of the technologies I analyze are the forms of record keeping used to gather knowledge about prisoners and to maintain an institutional record. These records include identification cards and ledger books, with lines and spaces to index and categorize prisoners. Next, I examine the spatial orientation and distribution of raced and gendered prisoners in each system. In addition, I discuss how inmate labor, framed by prison authorities as a site of ideological redemption for some (and also exclusion for others) in a capitalist state formation, also served to structure gendered racial hierarchies.

Throughout, I posit that prisons are central institutions of border formation – both in a geopolitical sense as well as in laying the groundwork of enforced and bounded subjectivities. Mae M. Ngai has aptly argued that immigration law, and the 1924 Immigration Act in particular, both reflected as well as produced conditions of a “*global* racial and national hierarchy that favored some immigrants over others.”¹⁷ The major theoretical statement, and I hope, contribution, of this chapter to examine penalty and criminal law as key sites in the creation and maintenance of raced and gendered identities. The task of the chapter and the overall dissertation is to explore some processes of *how* this occurred in the particular historical and geographic circumstances of the Texas and California State Prison Systems during the Depression and into the Second World War. But before we approach the representational and material

“The Force of Law: Toward a Sociology of the Juridical Field,” trans. Richard Terdiman, *Hastings Law Journal*, Vol. 38 No. 5, (1987): 805—855.

¹⁷ Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2003), 3. While Ngai focuses on “illegal aliens” and immigration law, I examine the social lives of “common criminals.”

techniques of differentiation, a few words are in order on the historical and cultural context of the Texas and California borderlands.

Texas and California as Diasporic Borderlands

Texas and California had long been points of travel and arrival for people in multiple diasporic circuits by the 1930s. In the early nineteenth century, diverse streams of European Americans hailing from the Southeast traveled into Texas, frequently with enslaved African Americans. They met settled Tejanos along Mexico's northern frontier, and Native Americans displaced from the central plains. These migrants, like those in the later 19th century, were harbingers of the expanding capitalist world system. California's Gold Rush and later, the even more lucrative Central Valley agricultural industries drew immigrants from around the world. Multiple streams of Asian travelers sojourned east to arrive in these borderlands, displaced from homes by European expansion, capitalist development, and domestic political violence, drawn toward the colonial metropolises and centers of capital emergent in the Western United States. As Carey McWilliams, Ronald Takaki, Sucheng Chan, Lisa Lowe, Quintard Taylor and Gunther Peck have ably documented, between 1850 and 1930, Chinese, Japanese, Filipino, Korean, South-Asian Indian, Mexican, Italian, Portuguese, and Greek populations (to name a few) streamed east, west, north, and south into the American West in search of a living. By the depression years, "Okies" and "Arkies," as well as black southerners from the Southeast, and European Americans from the Northeast

traveled into California.¹⁸ Meanwhile, ethnic Mexican migrants displaced by revolution and enclosure movements and still permitted entry for agricultural labor (despite the Immigration Act of 1924), and black and white migrants from the American Southeast looking for new opportunities, had settled in Texas. At the same time, thousands upon thousands of rural black and white Texans moved from their rural homes into urban centers like Houston and Dallas. Mobility in and across these borderland states in the first decades of the twentieth century brought new and disparate peoples into contact with one another, making for new cultural opportunities and antagonisms. Many of the poorest of these people, and some of the most unruly, would find themselves behind bars in each state's criminal justice system.

Racial hierarchies structured most segments of the economy from depression to wartime, but it seems as if subaltern criminal economies were more racially diverse, though certainly not egalitarian. Domingo Tomez (whom prison records marked as "Mexican") was arrested in San Francisco on January 29, 1938, with Charles Berg and Charles Young (for whom no racial markers were given), after robbing a garage owned by a Chinese American man, and making their escape after locking him in a clothes locker. The 23-year-old Tomez had been born in Presidio, Texas, in 1915, moving with his family to El Paso and Ciudad Juarez, Mexico until 1933, when he traveled and

¹⁸ Carey McWilliams, *Factories in the Field: The Story of Migratory Farm Labor in California* (Boston: Little Brown, 1939), Ronald Takaki, *Strangers from a Different Shore: A History of Asian Americans* (New York: Penguin Books, 1989), Sucheng Chan, *Asian Americans: An Interpretive History* (New York: Twayne Publishers, 1991), Lisa Lowe, *Immigrant Acts: On Asian American Cultural Politics* (Durham: Duke University Press, 1996), Quintard Taylor, *In Search of the Racial Frontier: African Americans in the American West, 1528—1990* (New York: W.W. Norton, 1998), Gunther Peck, *Reinventing Free Labor: Padrones and Immigrant Workers in the North American West, 1880-1930*

worked in transnational, multiracial labor circuits along the Pacific coast: in California, Washington, and Alaska. Indeed, it was in Alaska that Tomez first met his future accomplices Berg and Young. As a matter of fact, Berg obtained the gun used in the robbery from a Filipino man he had known in Alaska, possibly working in Alaska's lucrative canning industries.¹⁹ While Tomez was in San Quentin, his father wrote to him from Ciudad Juarez, Mexico, to see if he needed anything, and if American prison regulations would permit him to send money to his son, thus maintaining transnational, and familial ties.²⁰ Tomez, Berg, and Young, the Filipino man from whom Berg bought the gun, and the man they robbed, were actors in multi-ethnic, if antagonistic, transnational communities of working class migrants who interacted with each other in everyday life in the Depression years.²¹

(New York: Cambridge University Press, 2000), James N. Gregory, *American Exodus: The Dust Bowl Migration and Okie Culture in California* (New York: Oxford University Press, 1989).

¹⁹ On Alaskan canning industries, Filipino immigration and transnational labor networks, see Dorothy B. Fujita-Rony, *American Workers, Colonial Power: Philippine Seattle and the Transpacific West, 1919-1941* (Berkeley: University of California Press, 2003).

²⁰ Domingo Tomez, #24120, Folsom Inmate Case Files, California State Archives. I have not been able to locate files on Berg or Young. Like the majority of individual prisoners' records in California, they may have been destroyed.

²¹ Secondary literatures on immigration and labor history in Texas and California contains precious little on the lateral interactions among/within diasporic groups. This is due, in part, to the foci of the immigration and labor historians. Most immigration histories have been structured around linear narratives and singular ethno-racial groups, and trace their interactions with dominant groups and structures. The recent innovations in immigration and labor literatures have been to focus on transnational connections: ie, Judy Yung's Chinese American women's relationships with Chinese national politics, in *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1995); analysis of the complexities of cultural resistance to domination (as in James N. Gregory's *American Exodus*); and intra-ethnic tension and difference. These include tension between old timers and newcomers in Marilyn S. Johnson's Oakland in *The Second Gold Rush: Oakland and the East Bay in World War II* (Berkeley: University of California Press, 1993), and Shirley Anne Wilson Moore's Richmond in *To Place Our Deeds: The African American Community in Richmond, California, 1910-1963* (Berkeley: University of California Press, 2000), and between Mexican Americans and *los recién llegados* in David G. Gutiérrez's *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity* (Berkeley: University of California Press, 1995). Other intra-ethnic tensions focus on gender difference, such as Fujita-Rony's Filipino immigrants in *American Workers, Colonial Power* and Emma Pérez's diasporic chicana/os in *The*

Lung Quong, (described as Chinese) was a California native who also went by the name Howard Hall. Like Tomez, Quong was also arrested in San Francisco in 1938, but for pimping, rape, and contributing to the delinquency of a minor. There is extensive court testimony – though none from Quong/Hall himself – that he had

Decolonial Imaginary: Writing Chicanas Into History (Bloomington: Indiana University Press, 1999). Very few historians have, to my knowledge, adequately examined the relationship between Chinese and Italian Americans in San Francisco, other than when, as Yung describes, Italian Americans protested that Chinese American children would go to public, non-segregated schools.

Indeed, there is precious little written about the lateral interaction among ethnoracial groups, and few studies of communities rather than singular groups. Some of the studies that do deal with interracial relationships are structured by class oppression and follow a domination, or a domination-resistance model, such as David Montejano, Emilio Zamora, Vicki Ruiz, Alexander Saxton, and Alwyn Barr. Others, that do examine interaction between, say, Japanese and Filipino Americans are structured by class difference and Marxian labor histories, as when Japanese growers tried to break Filipino and Mexican agricultural workers' strikes. Another of these is the last chapter in Tomás Almaguer's *Racial Faultlines*, in which Japanese and Mexican workers organized together against white growers in the Oxnard Sugarbeet Strike of 1903. See David Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986* (Austin: University of Texas Press, 1987), Emilio Zamora, *The World of the Mexican Worker in Texas* (College Station: Texas A&M University Press, 1995), Vicki L. Ruiz, *Cannery Women, Cannery Lives: Mexican Women, Unionization, and the California Food Processing Industry, 1930-1950* (Albuquerque: University of New Mexico Press, 1987), Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: University of California Press, 1971), Alwyn Barr, *Black Texans: A History of African Americans in Texas, 1528-1995* (Norman: University of Oklahoma Press, 1996), Tomás Almaguer, *Racial Fault Lines: The Historical Origins of White Supremacy in California* (Berkeley: University of California Press, 1994).

As so much of this literature makes clear, the contact and racial interaction in the Texas and California borderlands was firmly structured by racial domination – by racially stratified labor markets, by neighborhood/ spatial segregation, and by an oppressive state. Nevertheless, it is possible that part of the existing literature's focus on single ethnoracial groups, and structured by vertical domination-resistance models is the result of the types of questions that many labor and immigration historians have been asking, as well as the structures of labor markets.

In contrast, cultural historians using different sources and methodologies have found more substantial cultural exchange and hybridity among diasporic populations, most notably in music and youth culture. Consider George Lipsitz, *Rainbow at Midnight* and *Dangerous Crossroads*; Matt Garcia, *A World of Its Own: Race, Labor, and Citrus in the Making of Greater Los Angeles* (esp. chapter 6); George J. Sánchez, *Becoming Mexican American*, and "Working at the Crossroads: American Studies for the 21st Century – Presidential Address to the American Studies Association, November 9, 2001," *American Quarterly*, Vol 54 No 1, (March 2002); David Reyes and Tom Waldman, *Land of a Thousand Dances: Chicano Rock 'n' Roll from Southern California* (Albuquerque: University of New Mexico Press, 1998); Clora Bryant, et al, *Central Avenue Sounds: Jazz in Los Angeles* (Berkeley, University of California Press, 1998); Manuel Peña, *The Mexican American Orquesta: Music, Culture, and the Dialectic of Conflict* (Austin: University of Texas Press, 1999), Bill C. Malone, *Country Music, U.S.A.*, rev. ed (Austin: University of Texas Press, 1985), Luis Alberto Alvarez, "The Power of the Zoot: Race, Community, and Resistance in American Youth Culture, 1940—1945," (Ph.D. Dissertation, University of Texas at Austin, 2001).

seduced Esther Ross, a white, 15-year-old runaway recently arrived in San Francisco from parts unknown. Miscegenation records and trials offer a long tradition in gendered racial hybridity – and the white, male fears it generated. Of course, the records created around miscegenation and subsequent lynching and race riots – as in the anti-Filipino riots in Watsonville in 1930, and countless lynchings in Texas and across the South – speak as much to white anxieties of race mixing and “degeneration,” thanks to poor whites’ supposed backwardness, as they do to actual circumstances of interracial sex. While interracial interaction and intimacy, as well as exploitation, was known to take place in and confined to urban vice districts, Lung Quong/ Howard Hall also developed a more substantial relationship with another white woman, and this was a matter of great concern to his parole officers.²²

After serving a portion of his sentence behind bars, Quong was eligible for parole and left for Reno, Nevada. Though the terms of his parole prohibited him from leaving the city, in 1942 Quong was arrested for speeding in the San Joaquin Valley. However, more serious than either the speeding ticket or leaving Reno without authorization, Quong had violated his parole by getting married without the permission of the Board of Prison Terms and Paroles.²³ Quong and his betrothed, Helen, had

²² On vice districts and racialization in this period, see Kevin J. Mumford, *Interzones: Black/White Sex Districts in Chicago and New York in the Early Twentieth Century* (New York: Columbia University Press, 1997). On the history of miscegenation in law, see Peggy Pascoe, “Miscegenation Law, Court Cases, and Ideologies of ‘Race’ in Twentieth-Century America,” in eds. Kathleen Kennedy and Sharon Ullman, *Sexual Borderlands: Constructing an American Sexual Past* (Columbus: Ohio State University Press, 2003), 218—249.

²³ Paroled prisoners were prohibited from engaging in contracts (including wage labor and marriage contracts), or freely traveling. These were two of the foundations of full modern, legal personhood and citizenship. Thus, while incarcerated, or on parole, wards of the state lived an oppositional category to full legal personhood, and this articulated with racialization and gendering as non-citizens. On the racial,

traveled to Washington State to get married. Most important, Helen was white.

According to the evidence presented to the Board of Prison Terms and Paroles, officers thoroughly searched his car. In the process, they found “a marriage license in the glove compartment, showing that Quong had made a trip to Vancouver, Washington, where he had married a white girl he had met in Reno. He later stated that he had been intimate with this white woman....” This confirmed the prurient curiosity and fears of the Board of Prison Terms and Paroles.²⁴ The investigator continued that Quong and his wife later separated "due to embarrassment she suffered by being in the company of a Chinese," and that she returned from Reno to her home state of Texas. We might question, however, what the source of her “embarrassment” was, and if their relationship was torn apart by others’ racist scorn rather than her own shame at racial crossing racial borders.

Indeed, in an undated letter to the Board of Prison Terms and Paroles, Mrs. Helen Quong admitted that they had gone to Washington to get married, and explained that they had not asked permission to do so for fear that the Board of Prison Terms and Paroles would deny the request based on their racial difference. "He being oriental and I am american made it very hard for us; and we wanted the right to be together legally at last. I didn't know he could get permission to marry or I would have insisted on doing it in the right way. It is my belief that he didn't think the Board would give him permission because of the circumstances." Helen Quong was tactful enough not to

gendered, and classes dimensions to the ability to sign contracts, see Amy Dru Stanley, *From Bondage to Contract*; Gunther Peck, *Reinventing Free Labor*.

mention that "the circumstances" were that of an interracial marriage. She continued to plead for his quick parole, but it seemed to have fallen on deaf ears, as Quong himself wrote a letter to the Board of Prison Terms and Paroles on June 16, 1943, incarcerated, from the Humbug Valley B. R. C. (likely a prison Road Camp), possibly for this parole violation and transgression of gendered racial norms.²⁵ In contrast, white Folsom inmate Alex Sokoloff didn't wait for the state's restoration of his civil rights and their permission to marry but did so anyway in Yuma, Arizona. The Board of Prison Terms and Paroles nevertheless authorized this after the fact.²⁶ Parole violations for a Chinese man marrying a white woman were harshly treated. A white parolee's violation, however, was much less of a concern and merited no punishment.

Discursive Marking, Nativity, and Racial Record Keeping

Global flows of capital and human labor, and political turmoil and violence, brought these multiple diasporic populations into the governmental purview of these two states in the American borderlands.²⁷ In the face of complex admixture of travelers,

²⁴ On images of the sexualized "Oriental," see Robert G. Lee, *Orientalism: Asian Americans in Popular Culture* (Philadelphia: Temple University Press, 1999).

²⁵ Case Jacket and file on Lung Quong, # 23132, CSA Folsom Inmate case files, F3745:548. The words "oriental" and "american" are lowercase in Helen Quong's letter. There were a spate of anti-miscegenation laws passed in California and around the country, limiting the marriage of Asians and whites. These were continually challenged, especially by Filipinos who were the offspring of Malaysian, Spanish, Chinese, and other ethnicities. Chan documents numerous court cases in which Asians and whites tried to marry. Some were permitted, others denied. Los Angeles courts determined in the 1920s that Filipinos were not "Mongolians" and thus could marry whites, but this was challenged and undone by the California Attorney General. Anti-miscegenation laws were only undone in California in 1948. See Sucheng Chan, *Asian Americans*, 59-60.

²⁶ Reports of Meetings of the California State Board of Prison Terms and Parole, May 4-8 1942 meeting. CSA, Folsom Minute Books, F3717:1088. Sokoloff's inmate number was 21947.

²⁷ On the global forces of capital and labor, see David Harvey, *Spaces of Capital: Toward a Critical Geography* (London: Routledge, 2001), and Harvey, *The Condition of Postmodernity: An Inquiry in the*

workers, of multiple diasporas into these states, prison officials demanded to know the identities of their prisoners in clearly defined ways. While the individual identities of specific lawbreakers were important, racial identifications were key to broader social controls.

In American cultural discourse, all prisoners were marked as different from citizens, and this difference articulated most clearly with processes of racialization via a discourse of morality. Criminals are those who have broken state-made laws, typically those of private property and violence. Since the colonial period, a discourse of im/morality has been linked to racial ideologies of blackness and whiteness, and is also connected to transgressions of the law.²⁸ The very definitions of law perform ideological work, guaranteeing the sanctity of property relations and hiding historically contingent forms of bourgeois authority behind the seeming impartiality of the rule of law.²⁹ Thus, all prisoners were immediately marked as deviant, both racially and

Origins of Cultural Change (London: Blackwell, 1990); on capital and migration in Texas, see Montejano, *Anglos and Mexicans in the Making of Texas*, Neil Foley, *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture* (Berkeley: University of California Press, 1997), Zamora, *The World of the Mexican Worker in Texas*, Pérez, *The Decolonial Imaginary*. For a sampling of California immigration histories in this period and before, see Sucheng Chan, *Asian Americans: An Interpretive History* (New York: Twayne Publishers, 1991), Takaki, *Strangers from a Different Shore*, Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: University of California Press, 1971), Sánchez, *Becoming Mexican American*, Gutiérrez, *Walls and Mirrors*, Devra Weber, *Dark Sweat, White Gold: California Farm Workers, Cotton, and the New Deal* (Berkeley: University of California Press, 1994), Carey McWilliams, *Factories in the Fields: The Story of Migratory Farm Labor in California* (Boston: Little Brown, 1939), Moore, *To Place Our Deeds*, Lawrence B. de Graaf, Kevin Mulroy, and Quintard Taylor, eds., *Seeking El Dorado: African Americans in California* (Los Angeles: Autry Museum of Western Heritage; Seattle: University of Washington Press, 2001), Marilyn S. Johnson, *The Second Gold Rush: Oakland and the East Bay in World War II* (Berkeley: University of California Press, 1993), Gregory, *American Exodus*.

²⁸ Teresa Zackodnik, "Fixing the Color Line: The Mulatto, Southern Courts, and Racial Identity," *American Quarterly*, Vol. 53 No. 3 (Sept 2001): 420-451, esp. 424-5.

²⁹ Radical criminologists have long made this claim. See, for example, Ian Taylor, Paul Walton, Jock Young, *The New Criminology: For A Social Theory of Deviance* (London: Routledge and Kegan Paul,

morally, and this was much of the basis behind the still-powerful arguments for the sterilization of prisoners.³⁰ Nevertheless, as is discussed below and elsewhere in the dissertation, the ideologies of racial hierarchy prevalent during the New Deal allowed for white raced inmates (tainted though their whiteness may have been), to be potentially redeemed into mainstream society through putatively redemptive industrial labor. In other words, their whiteness was “darkened” with criminal status when compared with normative citizens, and due to spatial proximity to racial others in the prison itself. However, thanks to the class and state formations of the New Deal and war years, white prisoners were still considered potentially redeemable citizens. Racial others, whose asserted claims to social equality were consistently marginalized, had far fewer opportunities for social redemption through punishment.³¹

Prison officials needed ways to categorize their wards upon intake into their institutions. After the ritual degradation of arrest, trial, and sentencing, inmates entered the discursive and material spaces of prison systems when their bodies and histories were transcribed into the record books. There should be little surprise that this dehumanizing process took place in rooms with names like the “fish tank” at San Quentin, and the “bull pen” at Huntsville. Prisoners’ bodies were categorized in different institutional forms, including Convict Ledgers, indices, and identification

1973). See also Edward L. Ayers, *Vengeance and Justice*, Zackodnik, “Fixing the Color Line,” Bourdieu, “The Force of Law.”

³⁰ Edward J. Larson, *Sex, Race, and Science: Eugenics in the Deep South* (Baltimore: Johns Hopkins University Press, 1996). San Quentin Physician Leo Leonidas Stanley was a committed advocate of criminal sterilization.

³¹ See Neil Foley, *White Scourge*; David Roediger, *Wages of Whiteness*. For a critique of whiteness literature and its applicability to labor history, see Eric Arnesen and comments, “Whiteness and the Historian’s Imagination,” *International Labor and Working Class History*, No. 60, (Fall 2001): 3—92.

cards, all of which described inmates in order to know and control them, and marked prisoners for the creation of institutional memories. Each of these processes wrote inmates bodies into existence, fixing complex, multiple, and contextual, identities into a single, bodily one, recorded in text and mandated by the rule of law.³² Historian Walter Johnson describes a similar process in antebellum slave markets: "[I]n describing the blurred spectrum they saw before them, buyers used descriptive language that was infused with the reassuring certitudes of race. The words they used attempted to stabilize the restless hybridity, the infinite variety of mixture that was visible all over the South, into measurable degrees of black and white."³³ Johnson continues, "the racialized bodies these buyers thought they had discovered in the slave market were, in fact, being produced by their examinations—not in the sense that there was no body standing there until a buyer described it but in the sense that the racialized meaning of that body, the color assigned to it and the weight given to its various physical features in describing it, depended on the examiner rather than the examined"³⁴

³² See Richard Terdiman's Introduction to Bourdieu's "The Force of Law." Elsewhere in the dissertation, I describe how prisoners, too, contributed to the contested field of penalty. See also Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books 1979). Michel Foucault's theories of subject formation in *Discipline and Punish* charted much of this terrain. But while Foucault offered powerful analytical insight into processes of subjection and carceral power, racial formation remained a blind spot in his analysis. Furthermore, as a philosopher, Foucault focused on the creation of the modern notion of the individual subject. This is all well and good. What Foucault misses here, and which scholars such as Ian F. Haney López and Melissa Nobles address, is the ways in which states adjudicate group and especially racial identities through techniques of mapping bodies (via citizenship law and court cases, or in the census). See Haney López, *White By Law: The Legal Construction of Race* (New York: New York University Press, 1996), Nobles, *Shades of Citizenship: Race and the Census in Modern Politics* (Stanford: Stanford University Press, 2000). Prisoners retained complex and diffracted identities in prison, too, but a full exploration of how prisoners re-made their identities in a penal context is beyond the scope of this chapter.

³³ Walter Johnson, *Soul By Soul: Life Inside the Antebellum Slave Market* (Cambridge, MA: Harvard University Press, 1999), 139.

³⁴ Johnson, *Soul By Soul*, 157.

Prison officials and bookkeepers made similar assessments of the convicts they classified. They described and inscribed numerous colors and complexions as racial difference to describe bodies that displayed a stunning diversity of shades and tones, all of which were reduced to the reassuring categories of fixed and stable races. Like the slave traders and buyers that Johnson describes, official descriptions of prison inmates were fraught with contradiction as they "tried to pack the infinite variety of physical bodies into standardized racial categories...."³⁵

There were many versions of the prison and of the people who lived behind its walls: prisoners' own understandings of themselves, their views of each other, and the views of prison officials and the prisoners who served as their proxy. But the official version was especially powerful. It had the institutional and coercive ability to make its representations of prisoners' bodies into a material reality.³⁶ The visions of inmates' bodies described in institutional records operated precisely to this effect. Prisoners certainly saw themselves in specific and opposing ways to those of the state (though at times they overlapped), but the state had the ability to make its version of prisoners' raced bodies "real." And these racial identifications – as imposed by the state or claimed by individuals, have been a central component of American penalty and social control.³⁷ When prisoners described feelings of disembodiment and disorientation on

³⁵ Johnson, *Soul By Soul*, 157.

³⁶ John Comaroff, "Foreword," in eds. Mindie Lazarus-Black and Susan F. Hirsch, *Contested States: Law, Hegemony, and Resistance* (New York : Routledge, 1994). See also Johnson, *Soul By Soul*, 46.

³⁷ There is some debate about when, precisely, criminal justice became a locus of racial control in the United States. The answer varies by region. Alex Lichtenstein and Edward L. Ayers offer compelling arguments that with the demise of slavery in 1865 and through the end of reconstruction, the state arose as a primary enforcer of racial control in the South. Loïc Wacquant suggests that only in the last decades of the twentieth century did incarceration for crime become the primary modality of racial control across

entering the institutions, of seeing and being seen, and of physical disorientation, they were articulating a phenomenon similar to what W. E. B. Du Bois called double consciousness: an expression of the cognitive dissonance between their own senses of self and the descriptions and controls that prison authorities that the state imposed.³⁸

Racial categorization embodied in prison practice served not just to differentiate between groups as categories of human, but also to eclipse internal difference within those groups. Through the prison record keeping apparatus (as one site in the construction of racial identities) state governments effectively distorted differences that heterogeneous groups knew prior to their incarceration – be they classed, regional, linguistic, or ethnic. In prison as in the “free world,” racial categories served to simultaneously create difference among racialized groups as well as the appearance of homogeneity among what were, in fact, heterogeneous communities.

the country, following the institutions of chattel slavery into the 19th century, and Jim Crow segregation in the South and ghettoization in the North for most of the twentieth centuries. There is a relative paucity of secondary material on the history of punishment in the Western United States. However, Shelley Bookspan’s institutional history of California’s prisons mentions racism in the prison system but does not explore this theme in depth. Conversely, Barbara Jeanne Yaley argues that criminal justice in California has, since 1849, been an explicit instrument of class and racial control. See Bookspan, *A Germ of Goodness: The California State Prison System, 1851–1944* (Lincoln: University of Nebraska Press, 1991), Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996), Ayers, *Vengeance and Justice: Crime and Punishment in the 19th-Century American South* (New York: Oxford University Press, 1984), Wacquant, “From Slavery to Mass Incarceration: Rethinking the ‘race question’ in the US,” *New Left Review*, Vol. 13, (Jan-Feb 2002), 41–60, Yaley “Habits of Industry: Labor and Penal Policy in California, 1849-1940,” (Ph.D. diss, University of California at Santa Cruz, 1980). Criminal justice has never *not* been associated with gendered forms of racialization and class control. Rather than asserting a specific periodization here, I would stick to the broader sociological claim that forms of punishment express power relations and contradictions in society, which operates through various modalities of class, race, gender, and nationality, which articulate with specific social and political economic formations. In the 1930s, property relations were strictly enforced and racial boundaries were firmly planted through penal practice.

³⁸ W. E. B. Du Bois, *Souls of Black Folk*, 1903 (New York: Vintage Books, 1990), 8-9. Du Bois also uses carceral metaphors in his description of the double consciousness of being African American, a “sense of always looking at one’s self through the eyes of others.” Gloria Anzaldúa and other border

Filipino American prisoners in California present a case in point. Rackett Gautan was arrested in 1930 for stealing a suit of clothes from a Spanish-surnamed co-resident at a boarding house in Los Angeles. Like many diasporic Filipinos, Gautan traveled to the U.S. seeking wage labor opportunities in the colonial metropole. Unlike most, who came from the northern Luzon, well north of Manila, Gautan was born and raised in Sorsogon, to its far southeast, and spoke a different language from most Filipinos from Luzon. In the course of his trial, the Judge called two different translators to make sure that Gautan understood the proceedings. However, the trial transcript clearly shows that neither translator spoke the same dialect as Gautan, who understood little if anything of the trial itself, and in which he ultimately pled guilty. Like other diasporic groups in the United States, Gautan and his translators could only come to know themselves as “Filipino” as a primary ethnoracial and national identity upon arrival in the very different context of this new country, where many shared similar experiences of racialization and lower class position in agricultural labor. Gautan and his translators knew the many differences between them (language being one among many), but to the trial Judge, all Filipinos, and their languages, were essentially alike. He made this clear when he asked one translator ““Do you use Filipino over there or Spanish?” The interpreter responded, "Generally we use Filipino." The presiding Judge made clear his familiarity with Filipino culture and

theorists/writers have articulated a similar “mestiza consciousness,” and awareness of doubling. *Borderlands/La Frontera: The New Mestiza* (San Francisco: Aunt Lute, 1987).

history: "It is really a form of Spanish, isn't it?" "No," responded the interpreter, it is "entirely different."³⁹

Filipino identities would be formed and driven home forcefully when they were confronted as a homogenized group with the law, or after the Tydings-McDuffie Act of 1934, which granted the Philippines independent national (rather than colonial) status, and reduced Filipino immigration to 50 per year. Coupled with the US Immigration and Naturalization's Dickstein Repatriation Resolution of 1935, the legal deportation of Filipino prisoners joined with white, working class extralegal violence (as in the Watsonville and Exeter anti-Filipino riots) to install a new regime of Asian exclusion and seal American borders from the penetration of these racialized workers.⁴⁰

Cards, Ledgers, and Writing Identity

Through forms of recordkeeping, human beings with complex histories and identities were reduced to individual, administratively legible, case files. This was a process in which prisoners' visions of themselves played little role at all. Indeed, the entire history of criminal recordkeeping aimed to remove all personal agency in controlling their identity, which they might change in order to escape punishment.

³⁹ See San Quentin Inmate Case Files, Rackett Gautan, 49304, California State Archives (CSA), F3750:486. See Yen Le Espiritu, "Colonial oppression, labour importation, and group formation: Filipinos in the United States," *Ethnic and Racial Studies* Vol. 19 No 1, (Jan 1996): 29—48; Lisa Lowe, "Epistemological Shifts: National Ontology and the New Asian Immigrant," in *Orientations: Mapping Studies in the Asian Diaspora*, Candice Chuh and Karen Shimakawa, eds. (Durham: Duke University Press, 2001), 267—276.

⁴⁰ Espiritu, "Colonial oppression, labour importation, and group formation," and Espiritu, *Filipino American Lives* (Philadelphia: Temple University Press, 1995), Ngai, *Impossible Subjects*, 96—126, Howard A. De Witt, *Anti-Filipino Movements in California: A History, Bibliography and Study Guide* (San Francisco: R&E Research Associates, 1976), esp. 74-5.

California began the twentieth century using Bertillion files to record inmates' identities. The Bertillion system was developed in the 1870s by Parisian police bureaucrat Alphonse Bertillion to precisely track and identify metropolitan French criminals. Bertillion cards first used in California had no photograph attached, but contained a great deal of biometric information, measuring foot size and determining forehead angle. The right ear was measured, teeth and chin assessed, beard, hair, complexion, weight and build measured, and place of birth noted, as a topography of bodies to concretely link subjects to criminal case files.⁴¹

As David Lamson's memoir suggests, biometric and racial information on prisoners was not recorded from on high by guards or wardens. Unlike the slave traders' transaction books, penned by clearly dominating slave traders, the politics of recordkeeping in state prisons are more convoluted. No, prison inmates were in charge of these administrative duties, and prisoner bookkeepers were generally the ones who made the notations of height, age, weight, race, and nativity. Like the inmate who admitted David Lamson to San Quentin, they smoked their cigarettes and probably did not give a damn about any of it. After all, they were just doing their job while they did their time, and were happy with this privileged assignment and not working in the jute mill, the quarry, or in the fields. The question of agency here – of *who* was the state –

⁴¹ Simon A. Cole, *Suspect Identities: A History of Fingerprinting and Criminal Identification* (Cambridge, MA: Harvard University Press, 2001). According to Cole, the precise mappings of criminals' bodies and identities were more geared toward tracking a behavioral history in text, and then concretely linking a body to that case file and the history it contained. Walter Johnson asserts that the histories that slave traders wrote of their slaves did more than just record questionable facts to facilitate a market transaction. "By detaching slaves from their history and replacing human singularity with fashioned salability, the traders were doing more than selling slaves: they were making them." Johnson, *Soul By Soul*, 129.

remains problematic. Prisoners were the eyes of the state; their labor and their racial notations expanded the state's record keeping apparatus. But despite the fact that these were prisoners, their vision was immediately harnessed into the depersonalized, highly rationalized and bureaucratic institution. The ways that these prison bookkeepers saw the inmates they entered into prison records became part of the prisons' institutional memory, which would then be examined by other, similarly depersonalized prison workers and bureaucrats.

It appears that in 1917, California replaced its Bertillion books with identification cards to track their inmates in a rationalized and accessible administrative space. The subsequent ID cards were still based on a Bertillion-type anthropometry. However, by 1930, San Quentin began issuing new cards based on looser categories than the Bertillion system, whose scientific accuracy in measurement had been called into question some years before.⁴² These new ID cards relied more heavily on photographic visual imagery, but nevertheless maintained description of body types and recording marks, scars, and tattoos, as well as fingerprint information. The cards described below remained consistent in form and use in San Quentin from 1930 through the end of WWII.

While the form of the cards themselves remained largely consistent, the words used to describe inmates' bodies, and most importantly, their "Color," did not. This inconsistency should come as little surprise, as the category "Color" – combining disparate measures of nationality, race, religion, and bearing little if any correspondence

⁴² Cole, *Suspect Identities*, 149.

to “complexion” – adhered not to material bodies but rather to ideological representations. While the practices of determining someone’s “color” and identity changed over time and in different political economical contexts, once inscribed behind bars, they were quite literally set in stone. Identities would provide the basis for labor, type of punishment, food served and opportunities for education. Racial identities, in and out of prison, were the result of a complex matrix of forces, conflicts, and racial projects in the contemporary social formation.⁴³

In some of these cards, “Portuguese” was listed as a "color." So was “White,” (capitalized), so was “Mexican,” so were “Jewish,” “Chinese,” and also “Canadian.” Significantly, however, though record keepers weren’t totally consistent in this practice, the color "Negro" was typed using red ink. The color/racial designation “White” was always written in “normal,” and normalizing, black script, while the terms Mexican, Chinese, Spanish, Portuguese, and Filipino, and were sometimes written in either red or black ink.⁴⁴

The symbolic significance of the red ink used in ID cards may seem trifling, but nonetheless bears further analysis. Each and every time a “Negro” prisoner was received at San Quentin, they were mechanically and consistently marked in the records and files, signifying the "special" and "different" status of racialized prisoners, as if they needed to be watched more closely than the rest. When racial material was collected, a

⁴³ Most significant were the changing political economic context of depression and war, the change from a labor surplus to a labor shortage, the racialization and stigmatization of domestic (“Okie” and black southern) and international immigrants, complicated by the global colonial and core-periphery relationships between the US and Mexico, the Philippines, China, Japan, and India, among others. All of this shifted, too, in the context of the Second World War.

prison typist pressed the lever on the typewriter raising the red ribbon and lowering the black one, as a special signifier of racial difference.⁴⁵

A further note is that when the “marks” on a prisoner’s body were recorded, prisoners’ tattoos were also noted in red ink. Criminologists maintained a long tradition in recording prisoners’ tattoos, and Bertillion himself found them fascinating. Furthermore, nineteenth century Italian criminologist Cesare Lombroso (famed for seeking out biological criminality based on primitivism, visible through physical attributes) argued that tattoos were “a specific and entirely new anatomico-legal characteristic” that indicated better than any other the “born criminal.”⁴⁶ Both the racial identity “Negro” and description of prisoners’ tattoos were printed in inmate ID cards using this different color. By using red ink, these two discursive constructions of prison inmates were thus specially marked. Red, then, was a signal of stigmatized difference, opposed to the relatively unmarked descriptions of a prisoners’ height, weight, crime, place of birth, or numerical representation of fingerprints.

⁴⁴ See Department of Corrections Records, San Quentin Inmate Identification Cards. These are archived by inmate number. California State Archives.

⁴⁵ Thanks to Lucy Barber, California State Archivist, in this discussion of the significance of the red ink in writing “Negro.” Specific segregation and maltreatment of inmates marked as “Negro” was consistent throughout the system, and was different from how Mexican and different ethnoracial other prisoners were treated. This was much like the racial segregation in the mess hall, where, according to California prison investigators in 1943-44, black prisoners were the only ones to be racially segregated from the rest – and this was true for living quarters as well. Mexican prisoners ate in the same general areas as “white” prisoners, though we might assume that there was some segregation here, too, given the prevailing standards of white supremacy across society.

⁴⁶ Cesare Lombroso, “The Savage Origin of Tattooing,” *Appleton's Popular Science Monthly* 48 (1896), 793-803, quotation 793. Cited by Cole, 58. The irony of a tattoo – an acquired physical mark – signaling inherent bodily criminality was apparently lost on Lombroso. Nevertheless, Lombroso read prisoners’ tattoos in much the same way that antebellum slave buyers read scars – as evidence of “deformity” of character or inherent criminality. See Johnson, *Soul by Soul*, 145-6.

Both tattoos and blackness were identifications of people that the state felt needed particular attention and special control. Did the color red signal some perceived threat to the system? Was "blackness" or being racially "Negro" written in red because it was a threat, too? It was likely seen as such by prison clerks and officials in California, as a sign of inherent criminality, beyond redemption into the New Deal state. Tattoos and blackness were marks on the body; they were on the surface of the skin. The difference, of course, was that tattooed prisoners got them of their own volition, as a performative statement and writing on their bodies. Among prisoners, tattoos were a form of bodily capital, a property and adornment that could not be taken away as punishment, when all other materials would be contraband, stored in a property locker. Prisoners used tattoos to mark themselves, and to use the surface of their bodies for writing themselves in ways that the state did not authorize. Indeed, giving tattoos at San Quentin was a punishable offense.⁴⁷ Conversely, blackness, or other racial identities, was hardly a matter of choice for the inmates so marked.

Nevertheless, when prisoners could express themselves without surveillance, they scribed damning indictments of their keepers and powerful expressions of their sadness. While it is difficult to know with certainty how ideologically or culturally aligned Chinese inmates at San Quentin would have been to Chinese immigrants imprisoned a few miles away at Angel Island, the poems that they carved into detention

⁴⁷ Such was the case with Joe Carcella, San Quentin #48267, who was caught with tattooing materials in his cell, and who gave prisoner Smock, #54341, a tattoo. Carcella lost good time toward his release as his punishment. San Quentin Minutes of the Board of Prison Terms and Paroles, Oct 11, 1933, p.170. CSA, F3717:1072. See also Jane Caplan, ed., *Written on the Body: The Tattoo in European and American History* (Princeton: Princeton University Press, 2000).

centers would certainly have felt true even if classical Chinese references scattered throughout did not. Surely many would resonate to any reader, regardless of race or nationality, who felt the pain of incarceration. One detainee wrote:

I, a seven-foot man, am ashamed I cannot
 extend myself.
Curled up in an enclosure, my movements
 are dictated by others.
Enduring a hundred humiliations, I can only
 cry in vain.
This person's tears fall, but what can the blue
 heavens do?⁴⁸

And another:

America has power, but not justice.
In prison, we were victimized as if we were
 guilty.
Given no opportunity to explain, it was really
 brutal.
I bow my head in reflection but there is
 nothing I can do.⁴⁹

As Chinese detainees literally etched their grief into the walls of their prison, California authorities penned whole record books to keep track of racially Other prisoners. Between 1922 and 1937, California kept ledger books identified by the titles “Black and Yellow #2” and “Black and Yellow #3.” In addition, another book was entitled “San Quentin Women #2.”⁵⁰ Each of these books contained photos and descriptions of prisoners – name, racial identity, crime committed, sentence, nativity,

⁴⁸ Anonymous poem, 24, in Him Mark Lai, Genny Lim, and Judy Yung, eds., *Poetry and History of Chinese Immigrants on Angel Island, 1910–1940* (Seattle: University of Washington Press, 1980), 60.

⁴⁹ Anonymous poem, 22, in Lai, Lim, and Yung, eds., *Poetry and History of Chinese Immigrants on Angel Island*, 58. Of course, unlike Angel Island detainees, many Chinese prisoners at San Quentin were guilty of violating the law.

age, occupation, height, weight, complexion, eyes, hair, received date, parole/discharge date, and fingerprint information/formula. That these books even existed demonstrates how the state classified and created “Other” racial and gendered categories, while leaving normative identities unmarked. Judging from extant records, Texas officials only partially shared California’s obsession with administrative differentiation. Though Texas prison officials had long used oversize ledgers to organize prisoners into body types, and specifically into homogeneous racial types, Texas officials clearly preferred spatial arrangements as a method of maintaining racial difference, joined by hard labor. Forced labor and strict spatial segregation was what East Texas officials knew best.

Gender operated as another primary regulatory and distributive category in the prison (and beyond). The San Quentin Women book was not structurally organized by race; it included images and descriptions of women of multiple ethnicities and markings. Thus, women were known first and foremost as *women*, regardless of race. They were then known by race, as a secondary order of identification.

Men, on the other hand, constituted the normative gendered category of prisoner (as well as citizen, thus indicating the key relationship between maleness and either positive or negative recognition – but still recognition – by the state).⁵¹ Male prisoners were segregated at the secondary bodily level of racial difference. No images of “white” prisoners graced these pages. These books were solely devoted to documenting

⁵⁰ None of these three books have archival call numbers at the California State Archives. However, California State Archivists recommended that they be cited by their shelf location. For San Quentin Women: C5168; and for Black and Yellow #2 and #3: C5169.

⁵¹ See Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America* (New York: Oxford University Press, 2001) on gender and economic citizenship.

racial others. However, no Filipinos and few ethnic Mexicans were listed in these pages, either. Perhaps the complex colonial relationship between the US and the Philippines and the Good Neighbor Policy between the US and Latin America led to the contradictory ethnoracial and national status of Filipinos and ethnic Mexicans in the US.

These books are remarkable for the visions they produced and how racial difference was marked as an explicit denigration. Prison bookkeepers wrote racial epithets next to the photos of the inmates. Thus Jas. Mori, alias Hajime Ota, convicted in 1935 of two counts of Grand Theft and serving 1-10 years, was listed as a “Jap,” the word written and underlined next to his name, despite the fact that he was born in Hawaii. Willie Williams, a 29-year-old musician born in North Carolina and sentenced for assault with a deadly weapon, was described as a “Coon,” in underscored letters. Twenty three-year-old Herbert Chan, born in California and convicted of violation of the State Poison Act was listed as “Chink,” and Iasian Ali, a 41-year-old laborer convicted of assault with a deadly weapon, had the word “Hindu” written and underlined in bold letters across his photo. Some prisoners were listed as “Coon” while others were “Negro,” one after the other. At times it seemed as if this was based on skin shade, but the markings seemed inconsistent, and the logic behind such demarcation is difficult to ascertain.⁵² This should pose little surprise. The lack of any material referent for race would guarantee that the practices used to inscribe/describe race could not help but be inconsistently applied.

In the Women's Book, Cordelia McWee, born in Oklahoma and serving 1-14 years for forgery, had the word "Cooness" written and underlined by her name, while Alice Halverson, a housewife born in Illinois and who had passed bad checks, had no such marker, though her complexion was listed as "dark." Cassie Turner, a housewife from Modoc, California served 0-10 years for manslaughter, and was described as "Indian," with a "dark" complexion, "maroon" eyes and "black" hair. Josephine Lee was a 23-year-old maid born in Louisiana, sentenced for forgery in Los Angeles County. Listed as a "Negress," she had a "brown" complexion, black hair and "maroon" eyes. ("Maroon eyes" were frequently a marker of racial difference in prison categorizations.) 58-year-old Maria Gonzalez was convicted of possessing a still in Riverside County, and was described as "Mex" in the record books, with "dark" complexion, maroon eyes, and black hair. Interestingly, Rose Massucco, a seamstress born in Italy, with a "fair" complexion, had the word "Ital" written across her photo. Lest we think that this was purely a designation of her natal country, as according to the 1924 Immigration and National Origins Act, Lida Harden, a furrier convicted of receiving stolen property, was born in Holland, but had no such stigmatizing mark in the book.⁵³ Perhaps conceived of as a "Nordic white" in the intra-racial hierarchies of

⁵² Jas. Mori, 57735; Willie Williams, 57738; Herbert Chan, 57742; Iasian Ali, 58419. Black and Yellow #2 and #3: C5169.

⁵³ Cordelia McWee, 52181; Alice Halverson, 52298; Cassie Turner, 45174; Josephine Lee, 45204; Maria Gonzalez, 45300; Rose Massucco, 52440; Lida Harden, 52762. SQ Women: C5168, CSA. On the 1924 Immigration Act, see Mae M. Ngai, "The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924," *Journal of American History* June 1999 <<http://www.historycooperative.org/journals/jah/86.1/ngai.html>> Accessed 22 Nov. 2003.

whiteness, Harden needed no marker, as did Massucco and other Italian, or “Mediterranean white” women.⁵⁴

Race/Nativity Categories in Annual Reports

The categories used by California prison officials changed far more than they did in Texas, likely because so many more diasporic streams arrived in and through California. Nevertheless, during the Second World War, there were some brief ruptures in discourse on racial difference. Between 1942 and 1944, the categorizations of “White” and “Mexican” underwent something of a transformation. In 1942, and for the dozen years before, the racial categories (and number of prisoners) were listed as follows⁵⁵:

White:	2191
Negro:	1926
Mexican:	718

The logic behind this organization listed prisoners in descending numerical order, from largest to smallest number of prisoners. The following year,⁵⁶ however, listed:

Anglos ("White") Americans:	1571
Latin Americans (Mexicans):	609
Negroes:	1464

⁵⁴ On the diffracted nature of whiteness and “Nordic” and “Mediterranean” types, see Kennan Malik, *The Meaning of Race: Race, History and Culture in Western Society* (New York: New York University Press, 1996), 125; Foley, *White Scourge*; Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, MA: Harvard University Press, 1998).

⁵⁵ *Annual Report of the Texas Prison Board of the Texas Prison System, 1942*, 109.

⁵⁶ *Annual Report of the Texas Prison Board of the Texas Prison System, 1943*, 104.

And the logic here seemed to list prisoners in descending order of whiteness. It continued in 1944⁵⁷:

White:	1417
White (Latin American):	604
Negro:	1373

The war years were clearly a transitional period in the ways that the penal state envisioned its population. While the wartime contributions of Mexican Americans, as well as middle class activism and assimilationist strategies seemed to bear fruit in gaining the prize of whiteness (behind bars, at least), prison record keepers still saw difference in their whiteness. And every bit as important, the two anchoring poles of the racial hierarchy, “White” and “Negro” remained largely unchanged, as the elevated and subordinate positions between which ethnic Mexican prisoners and citizens alike navigated.

Unlike Texas, which operated under a relatively stable ethnoracial definitional hierarchy, categories in California changed dramatically, and erratically, based on the arrival of a prisoner who might be difficult to categorize (such as the "Afghan" category, as well as “Malay,” “Mongolian,” and “Ethiopian”). Of course, much of this speaks to the ways in which these categorizations may not have mattered too greatly in prisoners' lives – the difference between being described as Yellow, Mongolian, or Chinese, likely did not change the lived reality of racialization and its material consequences.

⁵⁷ *Annual Report of the Texas Prison Board of the Texas Prison System, 1944*, 100.

In all of these cases, prison authorities inscribed the bodies of their wards to categorize them in manageable ways, even if these, like the racial ideologies they furthered, were inconsistent and internally contradictory. Raced identities were administratively marked as a managerial, disciplinary, and technical practice to organize and identify prisoners in the bureaucratic record keeping apparatus. In so doing they reified the key discursive categories and hierarchies of the day. That these definitions were historically and geographically contingent made no difference to prison officials, who, based on these representational differences, arranged the bodies of their wards accordingly.

Spatial Organization of Punishment

Once prisoners' bodies were thoroughly and distinctly categorized, prison officials knew where to assign them in the prison systems. Managerial decisions based on representational differences thus had material and bodily ramifications, as prisoners were assigned to different locations and job assignments, where opportunities for education, vocational training, medical treatment, quality of food, and modes of punishment varied widely, depending on classification.

In the late 1930s, the Texas Prison System had, in the proud words of its officials, "one of the most advanced systems of segregation in the United States." While such segregation was understood to be an index of the *modernity* of the prison (classification and segregation being highly modernist techniques of social control), its roots can more accurately be discerned in Texas' slave past.

The geographic organization of the Texas Prison system was a sort of penal solar system in East Texas, a region whose dyadic black-white racial hierarchy and sharecropping economy was the most “Southern” of the state’s varied social and economic geographies. Huntsville was the administrative center of this constellation, with a number of satellite prison farms literally scattered as peripheral sites.

The prison system made use of these multiple sites for at least two reasons. First of all, this satellite system was relatively inexpensive, and prison farms needed little in the way of capital investment in buildings and bunkhouses (known as “tanks” – there were no cellblocks at the farms). Further, food that prisoners grew could be used to feed other prisoners, and the prison could be “self-sustaining,” as prisoners were made to “pay for their own incarceration.” This minimized the financial drain on state coffers and performed the ideological work that incarceration would “teach inmates a good work ethic” – long a theme of punishment in capitalist societies. Secondly, the system was firmly rooted in forced, racialized agricultural labor. State officials had long seen forced labor as appropriate for the racially marked and the unfree. In the social space of American culture, anyone sentenced to prison was effectively racially stigmatized. “White” prisoners lost some racial privilege when marked as criminal (which might be regained through “correction”), while black and ethnic Mexican inmates remained racially ostracized and were offered little hope of redemption into a racially stratified society. In the 1930s, especially, the long valence of racial slavery joined with failing cotton prices and the collapse of the sharecropping/tenant farming economy to render agricultural labor even more thoroughly racialized and dishonored.

Texas had twelve different units in its prison system, which geographically distributed prisoners according to modernist categories of bodily difference: by race, sex, physical ability, and occasionally by sexuality. In prison, these bodily differences were spatialized and reified, and underlined by the rule of law. As in the San Quentin Women Book and the San Quentin Black and Yellow Books noted above, sex functioned as the first element of differentiation. Race served as the next category of differentiation. After the 1936 Classification Plan was implemented, “Negro” and “Mexican” prisoners were segregated by race, age, and by first offenders versus repeat offenders. Young and first time black and ethnic Mexican prisoners were supposed to receive rehabilitative training, but in reality, it appears that their labor regimen was every bit as degraded as that of recidivists. Conversely, the white population was further classified into nine categories: physically defective; insane; feeble minded; drug addicts; homosexual; rehabilitative group; intermediate group; custodial group; and maximum risk group.⁵⁸

⁵⁸ The classification program instituted in 1936 also divided prisoners by age and by first-timer/recidivist status. A Program from the 1939 Huntsville Rodeo (TSLAC, Box 1998/038-404, Folder "Rodeo Program 1939," described as the classification program with the following (note that racial categorizations were the first to be differentiated):

More effective than any other single factor in advancing the prison system's plans of industrial progress is the program of inmate classification and segregation now in force here. This Classification and Segregation Program went into effect March 1, 1936, with the establishment of the Bureau of Classification at Huntsville prison, the receiving station for the entire system.

Negroes and Mexicans are segregated as to race, age, first offenders and recidivists.

The white male population of the prison (the female group being too small to permit segregation other than as to sex and race) is classified in terms of the following groups:

- (1) Physically Defective.
- (2) Insane.
- (3) Feeble minded.
- (4) Drug Addicts.
- (5) Homosexuals.
- (6) Rehabilitative Group--composed of those not oriented in crime who have good prospects for adjustment after release; and segregated further as to:
 - (A) those under twenty-five years of age, and

But Texas prisons had been structured by racial difference well before they were legitimated by the Classification Program, and indeed, the state legislature legally required racial segregation in state prisons in 1909, as part of a Texan version of Progressive Era reforms.⁵⁹ Referring to the world outside the prison walls, historian David Montejano has written that the Texan social and spatial order of the 1930s revised the racial prejudices of an earlier period. “This was a new society, with new class groups and class relations, with the capacity to generate an ‘indigenous’ rationale for the ordering of people.”⁶⁰ These were now part of a new social order that functioned to organize and regulate racialized labor after the decline of the ranching economy and with the emergence of 20th century agricultural capitalism.

This new social order tried to manage racial relations through spatial segregation, and drew on metaphors and meanings “remembered” from the slave south, but which also drew on the ascendant agricultural-industrial Jim Crow order dividing Anglos, Mexicans, and African Americans into distinct social spaces. Each prison farm was thus effectively a plantation, but one broken into different camps. The Ramsey Farm, which, in 1934, housed 738 “Negro” prisoners, was divided into 4 different

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- (B) those over twenty-five years of age.
 - (7) The Intermediate Group--including those prisoners with some criminal record and whose backgrounds indicate they are doubtful cases for rehabilitation; further segregated as to:
 - (A) those under twenty-five years of age, and
 - (B) those over twenty-five years of age.
 - (8) The Custodial Group--including persistent offenders.
 - (9) The Maximum Risk Group--including those who have indicated extreme viciousness or who may be expected to cause serious trouble, of (sic) those who have serious escape records and little regard for human life.

Nine geographically separate and distinct units are used for the segregation of the white male population. Agricultural units are reserved for classes 6, 7, 8, and 9, while two industrial units are reserved for the rehabilitative group. Rehabilitative measures, including apprenticeship, vocational training, etc., are concentrated on the rehabilitative group.

⁵⁹ Barr, *Black Texans*, 141. Consider, too, the lengthy prison investigations and testimony of 1910 and 1913. *Report of the Penitentiary Investigating Committee, 1910*.

⁶⁰ Montejano, *Anglos and Mexicans in the Making of Texas*, 159—178, esp. 160—163.

camps along Oyster Creek and the Brazos River. Ramsey was also one of the largest farms in the system, covering some 15,088 acres of land.⁶¹ Under threat of the lash, prisoners worked from sunrise to sunset growing corn, cotton, feed crops, and other assorted vegetables in these river bottom lands.⁶²

In contrast, the Blue Ridge Farm was exclusively for “Mexican” raced prisoners. It, too, was divided into two camps, where prisoners picked cotton, corn, and vegetables on 4505 acres. The Eastham Farm, however, was exclusively for “White” prisoners, who also worked long hours all year round in agricultural fields. These farms were exclusively for a particular race of inmates while others, such as the Central Farm, housed both Negro and White prisoners, but in separate camps. The Goree Farm was the only unit for women prisoners in Texas, and (like the San Quentin “Women” Record Book), it held women of different ethnoracial identities, though these were internally segregated. Lastly, Texas also had a farm specifically for “Invalid” and tubercular prisoners, known as the Wynne Farm. When, in 1936, Laura Spellman Rockefeller funded research into prison classification programs, Texas officials joyfully

⁶¹ *Annual Report of the Texas Prison System*, 1934, 65. See also the Map of Ramsey Farm, 1934, in the Governor Coke Stevenson Records, Box 4-14/148, Folder “Prison System.” TSLAC.

⁶² Kendrick Ian Grandison refers to black-raced spaces in the United States as metaphorical “bottoms” – the least desirable spaces in social and spatial economy. “Negotiated Space,” 540-550. But in the Texas Prison Systems, these literal river bottom lands were highly economically productive (for the prison system). However, the riverbottom agricultural lands used to grow cotton and sugarcane had long been associated with morbid and malarial conditions, and as places for the socially privileged to avoid at all costs. See the *1886 Biennial Report of the Texas Prison System*, 69, archived at the TSLAC, for notes on the “miasmatic” river bottoms, and black prisoners’ putative resistance to malaria.

learned that their geographically scattered system, rooted in a slave past, actually served the most “modern” classificatory and penological ends.⁶³

All agricultural labor was inherently racialized and deliberately degrading for prisoners, especially in contrast to the more honored and respected industrial programs at the central Huntsville Unit. While prisoners of all ethnoracial categories were expected to perform agricultural labor at some point in their sentences (assignment to the wood chopping squads was frequent was a sort of “seasoning period” at the beginning of their sentence at Huntsville, and the Jute Mill at San Quentin served a similar purpose), inmates who behaved well could work their way into more privileged “Trustee” positions. Obedient prisoners could oversee other prisoners, but no black or Mexican prisoners could come to oversee whites. In addition, few black or Mexican prisoners in Texas could ascend the upwardly mobile ladder into systematically valorized, industrial labor available at Huntsville.⁶⁴ Fewer still would find educational opportunities in Texas prison. A white farmer who employed migrant Mexican workers made his view of education for Mexicans clear: “They should be taught something, yes. But the more ignorant they are, the better laborers they are.... If these get educated, we’ll have to get more from Mexico.”⁶⁵

Francisco Serrano learned his way around the Texas prison system over the thirty-odd years he was incarcerated. He was arrested for sodomy in Washington

⁶³ *Official Program Souvenir of the 8th Annual Prison Rodeo*, 5, TSLAC, Box 1998/038-404, Folder “Rodeo Program 1939.” The classification program is also described in the 1938 *Annual Report*.

⁶⁴ Remaining photographs of industrial units in Annual Reports and Rodeo Programs proudly display only white prisoners. Further, other evidence, such as stories in the Huntsville *Echo* newspaper and in prison radio broadcasts on *Thirty Minutes Behind the Walls* showcased white prisoners in industrial labor.

County on March 17, 1930, and was sentenced to three consecutive 15-year sentences. Though born in Cuba in 1900, Serrano was listed as “M”, for Mexican, in the prison record books. Furthermore, the Huntsville bookkeeper recorded his complexion as “It mex”: light Mexican. There was no ethnoracial space to Cuban in the records. Serrano was, however, Catholic, married, and he smoked tobacco, but did not drink. He had worked as an auto mechanic, a boilermaker, and as a common laborer prior to his arrest, though whether or not he was employed at Huntsville as either of the first two remains unknown, while he certainly had more than his fill of field labor in the prison. Serrano had the letters “LM” tattooed on his forearm, and a heart on his upper arm, which he may have gotten while he served in the Army, or when he served time in a New Jersey prison. Though his tattoos were described in black ink, the Huntsville bookkeeper used a red pen to write the words “homosexual” and “marijuana user” across the top of his entry. As a “sexual deviant,” state officers also wanted to keep an especially close eye on him, for fear that he might infect others – syphilis and homosexuality were considered equally contagious in the penal context.⁶⁶

Shortly after his arrival, Serrano was transferred to the Blue Ridge Farm. This was consistent with his identification as racially “Mexican,” even though born in Cuba. Officials likely wouldn’t have known where to put him otherwise. In his many transfers through the prison system (and after two different escapes, one lasting more than 7

⁶⁵ Quoted in Montejano, *Anglos and Mexicans in the Making of Texas*, 193.

⁶⁶ Francisco Serrano, #63610, TSLAC Escape records, 1851—1943, Volume 1998/038-270; Conduct register 1998/038-213, Convict record 1998/038-164. See also J. W. Dunlop testimony, Dec 7 1943, Volume IV: Witnesses Before the Governor’s Committee on Investigation of Folsom Prison, pp. 734-757. CSA, Earl Warren Papers – Governor’s Committee on Penal Affairs – 1943-44. F3640:959.

years), he was always returned to Mexican-raced spaces in the prison. The only time when he was not returned to a Mexican section of the prison was in 1946, when he was committed to isolation and demoted to a third class prisoner for “trying to force another inmate to homosexual activities.”⁶⁷ As a sexually active and presumably violent prisoner, he was to be spatially isolated from others. For safety, for punishment, and to regulate sexuality in this all-male environment.

Asian American prisoners in California, too, were quickly located in the racial and gendered labor hierarchies at California’s San Quentin, Chino, Folsom, and Tehachapi prisons. Chinese, Japanese, and Filipino male prisoners were frequently transferred from one prison to another to work as cooks or gardeners in the institutions, as was the case when inmates Fong Suey Lung (52931) and Jo Lee, (53645) were sent to Tehachapi “to work round the ranch house and to cook for the guards.”⁶⁸

Numerous records also show that prison officials preferred having these “Oriental” prisoners as house servants in their personal quarters, as when on July 10, 1940, Folsom Warden Clyde Plummer sent “Chinese Prisoner No. 61580 George Yuen,” back to San Quentin from Folsom because his services as “a house servant” were “unsatisfactory.” The three different Chinese prisoners sent “to work in the Warden's Residence as house servants” to replace Yuen, would likely perform more to

⁶⁷ Francisco Serrano, #63610, TSLAC Escape records, 1851—1943, Volume 1998/038-270; Conduct Register 1998/038-213, Convict Record 1998/038-164.

⁶⁸ San Quentin Board of Prison Directors Minutes, 1933-34, CSA, Department of Corrections Records, F3717:1007. See entry for May 25 1935, p.328. No records remain for Fong Suey Lung, inmate number 52931, or Jo Lee, number 53645.

the Warden's liking.⁶⁹ Dr. Leo Leonidas Stanley, resident physician at San Quentin from 1913 through the 1940s, wrote lovingly about his Chinese "houseboy." Stanley explained that as the resident physician, "a house had been provided for us and one of the inmates, a young Chinaman, assigned as houseboy and cook. This Chinaman, who was in for murder, took the most devoted care of [Stanley's ailing wife], answering her every call and want with characteristic Chinese devotion. He is still a servant in my house, remaining after my wife's death in 1928."⁷⁰

The gender of Asian male prisoners was rooted in the feminized position of Asian men in California's political economy. Sucheng Chan suggests that in mid-nineteenth-century California, where there were so few women, any men willing to do "domestic" work, such as cooking or laundry – already dishonored and gendered as female – would be able to find a job and making a living. Thus because of the restrictions placed on so many Asians for their work (by "manly" and white union laborers, whose manliness and whiteness was largely produced in oppositional relation to Chinese men), Chinese men found labor opportunities in the service sectors of laundry, restaurants, and domestic labor. However, work in the service sector was deemed "inferior" through raced and gendered operations of power.⁷¹

California's penal spatial organization followed a different definition of modernity than did Texas' scattered penal universe, and organized its prisoners in huge

⁶⁹ San Quentin Board of Prison Directors Minutes, 1939-40, CSA, Department of Corrections Records, F3717:1010. See entry for July 10, 1940.

⁷⁰ Leo Leonidas Stanley, MD, "Twenty Years at San Quentin," from "The Centaur of Alpha Kappa Kappa," Vol. 39 No. 2. (January 1934), California State Library, California History Room, 365 S7.

centralized institutions based on individual cells and group, semi-industrial labor, known loosely as the “Auburn Plan” of penal architecture. San Quentin, known colloquially as “The Walled City,” was the largest single penal institution in the nation, housing more than 5,600 prisoners at its high point in the 1939, when it contained a lion’s share of the criminalized surplus labor population of the depression years (or, at least, those marginally employed, racialized workers not repatriated to Mexico, the Philippines, or China).⁷² In the 1930s and 40s, the prison system expanded, centralized, and attempted to rationalize itself into a singular administrative bureaucracy, and this effort conjoined with the further segregation of prisoners. In 1934 it developed a new institution for women at Tehachapi (also segregated by race into supposedly homey “cottages”), and furthered inmate segregation by what wardens thought to be their rehabilitative potential. As a result, San Quentin became the intake and classificatory unit, as well as housing for medium security prisoners; the Chino Institution for Men was opened in 1942 as a minimum security institution; and Folsom became the prison for maximum security inmates.

Even within California’s aesthetically “modern” institutions – centralized, capital intensive, and with individual cells (but doubled or even quadrupled due to overcrowding) rather than Texas’ “tanks” – the link between race and space was apparent as well as essential to the process of incarceration. Records defining the spatial components are scattered, but nonetheless, there is clear evidence that black

⁷¹ Chan, *Asian Americans*, 33-35, Saxton, *The Indispensable Enemy*. It should be noted that many black women prisoners were used as domestic labor for Texas governmental officials, including the Governor.

prisoners were segregated in different cell blocks than their white, Mexican and East and South Asian counterparts. Unlike the legislated racial segregation in Jim Crow Texas, racial differentiation and spatial separation in California was much more a matter of custom than law. Indeed, white inmates referred to “Dark-town” when talking about the “black” part of San Quentin – thus employing a metaphor from an urban landscape to explain modes of racial segregation within “The Walled City.”⁷³

While raced bodies were certainly known through official channels, other sources indicate that white prisoners enforced racial spaces, too, as a matter of delineating privilege and hierarchy. Liberal reformers investigating corruption in the California Prisons during World War II were surprised to learn that racial segregation was the norm in San Quentin and Folsom, and that black prisoners would be booed (or possibly worse) if they tried to sit and eat in the “white” section of the dining hall.⁷⁴ Indeed, for liberal reformers, racial segregation was anathema to the ideals they wanted California to represent during what was ostensibly a war against fascism. Of course, this was quite a different gesture from the Federal government’s Japanese internment camps.⁷⁵ This serves a key reminder that states are never monolithic, but instead reflect bureaucratic needs and personal desires, within an overdetermined, but flexible, formation.

⁷² On the “repatriation” of ethnic Mexicans, many of whom were born in the US, see Gutierrez, *Walls and Mirrors*, and Sánchez, *Becoming Mexican American*.

⁷³ H. Buderus von Carlshausen, written under the name “Roark Tamerlane,” “America – Add Stars to Our Stripes!” 20-21. Unpublished manuscript, California State Library, California History Room, 365 C284.

⁷⁴ Consider C. H. Daseking’s Dec 6 1943 testimony, Volume III: Witnesses Before the Governor’s Committee on Investigation of Folsom Prison, pp584-625, esp. 600-602. CSA, Earl Warren Papers -- Governor’s Committee on Penal Affairs -- 1943-44. F3640:958.

Folsom prison, too, was organized into a systematic racial hierarchy. Black prisoners complained that they were relegated to the top two tiers of one of Folsom's cellblocks, known as the "Crow's Nest" – certainly a derogatory and raced name for this part of the prison. Black prisoners complained that this was a terribly undesirable area, especially in the sweltering central valley summers, when temperatures frequently topped 100 degrees. Furthermore, prisoners in this top tier of cells were the last called to eat at mealtime, thus linking temporal with spatial segregation and the creation of honored and dishonored subjectivities.⁷⁶ And though liberal prison reformers were relatively silent about the condition of ethnic Filipino, Chinese and Japanese prisoners at Folsom, guards and investigators noted that lately there had been quite a "kick" from ethnic Mexican prisoners who protested racial segregation and subordinate treatment to whites.⁷⁷ Like racial segregation at San Quentin, and the antagonism it generated, this went against the new liberalist impulse that forced the reorganization of the California Prison System, and in 1944, gave birth to the modern, highly bureaucratic California Department of Corrections.

Spatiality and Sexuality

⁷⁵ See Roger Daniels, *Prisoners Without Trial: Japanese Americans in World War II* (New York: Hill and Wang, 1993).

⁷⁶ William J. Ryan Testimony, Dec 6 1943 evening session. Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp 631-670. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958. Consider also Kendrick Ian Grandison's discussion of black balconies in segregated churches and theaters. "Negotiated Space," 575, n18.

⁷⁷ William J. Ryan Testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp 631-670, esp. 650-654. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

If race and space proved to be an important element in prison reform, policing inmates' sexuality was even more so. Many prisoners were adept at making spaces for sexual intercourse in the prisons. In California, there were certain areas that prisoners knew panoptic authority did not reach, and which they might make as sites for illicit pleasure. "License," Erving Goffman wrote, "had a geography."⁷⁸ Some might go to Folsom's baseball alley or to select spots in the yard, or, up on a hill, where two men had been caught having sex in the early 1940s.⁷⁹

Other prisoners at Folsom and San Quentin were able to use influence and their potential to procure favors or exact retribution to receive sex. According to Captain Ryan, a prisoner named Paul Marsh boasted that he "could get any kid in his cell that he wanted," and Ryan believed it.⁸⁰

The networks that some prisoners used to control their cellmates, and thus have sex with each other, demonstrated the inability of prison officials to fully control their institutions. And prisoners' sexual practices proved far more elusive for state management than were their racial identities. Confused and contradictory understandings about the "nature" of sexuality in and out of prison made this a failed effort from the start. As prison officials tried to concretely identify homosexuals and explain their existence, they sought to fix their sexual identities in the same way that

⁷⁸ Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (New York: Penguin, 1961), 205.

⁷⁹ Lt. W. E. Kamp testimony, Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp270-292. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:957.

⁸⁰ Capt. William J. Ryan testimony, Dec 5 1943, , Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison pp 399-436, esp. 425. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:957.

they hoped to stabilize and solidify racial borders. In so doing, officials tried to secure the shifting borders between homosexuality and heterosexuality. Increasingly, they used a differentiation between “situational” and “true” homosexuality. Situational homosexuality was understood as a “normal sex perversion” in which heterosexuals would engage in sex with people of the same sex to satisfy “natural” urges and needs, because there were no members of the “opposite” sex available. This was in contrast to “true” homosexuality, which reflected either corporeal or psychoanalytic manifestations of psychosis or other illnesses.⁸¹ Shoring up the boundaries of sexuality was a particularly anxious project during the depression, but became even more urgent even in the war years, as men left home to live and fight in close quarters with each other, as women increasingly left home and entered the waged workforce, and in the context of increased racial interaction and geographic travel.⁸²

Prison officials recognized this illicit geography of pleasure, and did their best to control it where they could, and look the other way when they could not. Just as they tried to use control over and the organization of space to regulate differently raced prisoners, so too did they use special segregation to differentiate between prisoners they

⁸¹ Regina G. Kunzel, “Situating Sex: Prison Sexual Culture in the Mid-Twentieth-Century United States,” *GLQ*, Vol. 8, No. 3, (2002): 253-270, esp. 262.

⁸² See George Chauncey, *Gay New York: Gender, Urban Culture, and the Makings of the Gay Male World, 1890-1940* (New York: Basic Books, 1994); Regina G. Kunzel, “Situating Sex: Prison Sexual Culture in the Mid-Twentieth-Century United States,” *GLQ*, Vol. 8 No. 3, (2002): 253-270; Estelle B. Freedman, “The Prison Lesbian: Race, Class, and the Construction of the Aggressive Female Homosexual, 1915—1965,” *Feminist Studies*, Vol. 22, No 2, (Summer 1996): np, accessed online via Ingenta on June 19 2004 <http://infotrac.galegroup.com/itweb/viva_uva?db=ITOF>, Elise Cherner, “Segregating sexualities: the prison ‘sex problem’ in twentieth-century Canada and the United States,” in Alison Bashford and Carolyn Strange, eds. *Isolation: Places and Practices of Exclusion* (London: Routledge, 2003), 71—85.

perceived as heterosexual and homosexual. Yet this was a very difficult, if not hopeless, project for officials to master.

Folsom Lieutenant W. E. Kamp had much less trouble than some of his peers did with policing homosexuality. But in his testimony to the 1943 Governor's Investigating Committee, he did explain some bureaucratic and spatial processes through which homosexuality was policed:

I will tell you this: In my ten years here I have never come directly on a case of that kind, where it was in action. We have a certain amount of men who have that on their record cards here. They have that on their cards, but a long time ago – I would say possibly four years ago, the Warden issued an order that as fast as those men were located and caught by the Guards with a question of doubt, they were put in a cell by themselves. On our cell board, a sex case would have a red tag on it, on the card...that would have written on it 'hold', and that would mean nobody would be allowed to cell with them, and that is the way we kept them segregated.⁸³

Captain Ryan explained the difficulty he had in controlling different spaces and preventing men from having sex with each other: “Well, the bath house was a sore spot for a while, and there has been a guard over there for the last month or six weeks, and I put another guard in the laundry yesterday.”⁸⁴ Ryan also had the woodshed knocked down, where prisoners could enter unseen by guards. It was rumored that prisoners paid to have privacy in the woodshed, in tobacco or commissary.

Prison officials tried to solve the “problem” of sex architecturally, by eliminating the spaces outside of surveillance where sex could happen. The general

⁸³ Lt. W. E. Kamp testimony, Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp270-292, esp. 275. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:957. The color *red*, again, was symbolically significant for marking threatening inmates.

strategy was to "knock down" the places that prisoners used to have sex, or, in the case of the "baseball alley," to gate them closed.

In another moment at Folsom, the architectural features of the prison that offered inmates some privacy also allowed roving guards to sneak up on them. Guard O. L. Jensen reported "During my routine patrol of the 'Upper Yard' I approached inmate #23921 White and inmate #22296 Easter on the north side of building #1. Both inmates were on the bench next to the building. Inmate #22296 was copulating the penis of inmate #23921." "I immediately took both inmates to the 'Back Alley'. While taking both inmates to the 'Back Alley', inmate #23921 made the following remark: 'Dam it, here goes all my good time and I had such a good record.'" "Neither inmate could see me approaching them due to the off-set on building No. 1."⁸⁵

This incident took place at 11:25 in the morning. Despite the fact that Jensen caught and punished these two prisoners, it was just as apparent that they were using a place that was hidden by "the off-set" created by this architectural space. This offset, like the woodshed, the baseball alley, and the bathhouse, was used by prisoners as an illicit place for sexual pleasure. That this happened outside, and in broad daylight, suggests that this was a risky, but still opportune, location for sexual pleasure.

Nevertheless, spatial means and segregation at labor proved to be much-cherished ways to try and preserve control. Folsom tried to institute a separate work crew for so-called degenerates in 1943, known as the "Track Crew" because they

⁸⁴ Capt. William J. Ryan testimony, Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 399-436 esp. 425. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:957.

worked on the track beside the American River. On one occasion, prisoners refused to work and “cussed out” their guards. One of the guards named Robinson reported, "Upon taking charge of this crew on the Captain's Line, they commenced to abuse and curse generally all the officials of the institution for reassigning them to a separate work group." Clearly, some of these prisoners were angered at the separate treatment and the enforced differentiation that this assignment meant. A prisoner named Smith, #24004, yelled at Robinson and threatened physical confrontation. And in the process, Smith challenged the guard's own sexuality: "You are a bigger whore than I am! Throw me on the truck if you think you are big enough!"⁸⁶ As it turned out, Robinson and the other guards called in to support him, could muster the physical force to make them comply, and to punish them later. Nevertheless, the power of these inmates' sexuality wove more thoroughly into the prison system than many officials recognized. When Robinson explained the punishment meted out to a prisoner assigned to the Track Crew, he explained "That was Eddie Moulin. I believe they gave her a year more to do." Perhaps without even being aware of it, Robinson granted that Moulin was a "she."⁸⁷

According to Folsom Protestant Chaplain J. W. Dunlop, segregation was the best way to prevent the spreading contagion of homosexuality. "I view that sort of thing like leprosy. Anything of that type is infectious, or contagious, - when these men are lolling around the yard kissing each other on benches, and attempting acts of

⁸⁵ Folsom Inmate Case Files, CSA, R. W. White, San Quentin #57479, Folsom #23921.

⁸⁶ James W. Robinson testimony, Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp 345-353, esp. 350. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:957.

⁸⁷ Ibid.

degeneracy in the bath house if the guard is not there. I understand that no bath house shall be open unless a guard is there. It is better to have that type of man somewhere else. I wouldn't want any boy of mine subjected to such sights or such an influence."⁸⁸

In contrast to the “outrages” and “scandals” at Folsom, San Quentin Warden Clinton Duffy assured California investigators that sexuality at San Quentin was well under control. Duffy said that if a guard accuses prisoners of having sex, that they are separated, put into solitary, and then celled singly. There were specially designated cells in the South Block, and where prisoners were fed *after* (using temporal segregation) the rest of the inmates. There was a place that was enclosed with a wire fence, with an open toilet, and an exercise yard that gets some sun. There were 20-30 men in there in late 1943. Prisoners were kept there for "as long as we have to" according to Duffy, while the psychiatrist tried to "correct this condition" of sexual difference. He said that prisoners likely had some spots in the departments where they had sex, but that it was very little: "considerably lower than the public thinks it is." Some of the "known degenerates" would be assigned to work under close supervision, in assignments like guard's garden, known as "the garden beautiful." Duffy said "There are different spots like that where we try to place these known degenerates, - the ones that we don't have to confine in segregation." But not all of the prisoners assigned to these spots were so-called degenerates, and thus Duffy said that there was no stigma associated with these assignments. In fact, Duffy said that most prisoners did look

⁸⁸ J. W. Dunlop testimony, Volume IV: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp 734-757, esp. 750. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:959.

down on prisoners differentiated for their sexual practices: "they will look upon them as sexual perverts, but mostly they ignore them."

A questioner asked "Don't you think that that type of prisoner should be segregated?" Duffy answered "Absolutely."

Q: "And segregated to such an extent that he can attempt, if it is possible through medical science and otherwise, to rehabilitate himself?"

A: "That is right. ... You have to have a unit for that which must be properly supervised by 100% more supervision than we are doing with our normal prisoners today."⁸⁹

Thus, Duffy may have been proposing a program whereby "perverts" were normalized through labor assignment, and by heavily surveilled reintroduction into the "normal" population.⁹⁰ In this, he approached the psychoanalytic model of homosexuality that was increasing in scope in these years.

Conclusion

Racial liberalism, whose practices failed to transform the structural foundations of racial hierarchy, had poor results, resulting in more subtle racism, denigration, and conflict in prisons across the country. A generation later, George Jackson, the Black Panthers, and Attica's rebels in 1971 were some of this system's most articulate critics.⁹¹

⁸⁹ Clinton T. Duffy testimony, Volume VI: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, pp. 1249-1296, esp. 1283. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:961.

⁹⁰ Clinton T. Duffy testimony, Volume VI: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, pp. 1249-1296, esp. 1280-1283. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:961.

⁹¹ See George Jackson, *Soledad Brother: The Prison Letters of George Jackson*, (New York: Coward-McCann 1970), Jackson, *Blood In My Eye* (New York: Random House, 1972), Eric Cummins, *The Rise and Fall of California's Radical Prison Movement* (Stanford: Stanford University Press, 1994).

Nevertheless, as liberal state officials hoped to see and punish with colorblind eyes, the disciplinary strategy of spatial differentiation remained strong.

In many ways during the 1940s, as a result of prisoner protest (as well as scandal at corrupted prison officials), the primary concern for spatial segregation in California transferred to sexuality. The same reformers who decried racial segregation at San Quentin and Folsom (while refining forms of racial record keeping and knowledge formation of prisoners), called for new and better segregation for “sexual deviants.” For these reformers and prison planners, homosexuality was the oldest new contagion; they felt that sexual deviants’ bodies must be kept apart from the “normal,” whom they might corrupt. The modern California Department of Corrections, which, ostensibly, would segregate not by race but by behavior and sexuality, thus emerged, a child born of the specter of sex between men.⁹² Texas officials, for their part, had long written “homosexual” in red ink in Convict Ledgers, though seemed to have relatively few architectural divisions to segregate these prisoners, save for severe disciplinary cases.⁹³ In the same years, Texas prison officials attempted few efforts at liberal racial policies.

To return to the beginning: The disembodiment that the prisoners who introduced this chapter described was certainly common, and perhaps universal. But perhaps David Lamson, Benton Layman, Harry W. Jamison, and Terrence Bramlett felt

⁹² For one example of the many fears of men’s sexuality behind bars and its corrupting influence, as well as medical/contagion metaphors for the spread of sexual “deviance,” see J. W. Dunlop testimony, Volume IV: Witnesses Before the Governor’s Committee on Investigation of Folsom Prison, pp. 734-757. CSA, Earl Warren Papers – Governor’s Committee on Penal Affairs – 1943-44. F3640:959.

⁹³ See, for example, numerous inmates listed in the Texas Conduct Register 1998/038-213, Convict Record 1998/038-164. TSLAC. Albert Race Sample’s memoirs of life on prison farms mentioned male prisoners who had sex with each other (as well as other things), but makes no mention of homosexual prisoners’ segregation. *Racehoss: Big Emma’s Boy* (Austin: Eakin Press, 1984).

particularly lost because they were white men. It may be that they felt a particular discomfort at entering the prison and being known by the state because, as white men, this was a new feeling. Black, Mexican, and Asian Americans would have long been subject to the state's gaze, and subsequent double consciousness of knowing themselves, but having that self-knowledge be challenged by more powerful forces. Behind bars, when prisoners became acclimated to the prison (if that was ever possible), racial re-inscription took root once more. Sexual identity, and the borders between homosexuality and heterosexuality, proved to be a much more difficult "problem" to solve through recordkeeping or through architectural means. And the privileges of whiteness, and the differential racisms accorded to black, ethnoracial Mexican, and Asian American prisoners were felt in the bodies they worked in and the places they lived.

Prisoners rarely responded to the racialization they experienced by denying their race. Rather, they responded with the confidence that *being* black or Mexican wasn't what authorities thought it meant. To many black prisoners, being a black man meant being resourceful, it meant being proud and not degraded, it meant being bold in the face of oppression and stalwart in the face of violence. It meant working together when you could, and fighting when you had to. White prisoners never contested their whiteness, for this was perhaps their greatest asset. But they did contest their discursive unmanliness, as well as their forced labor. More hatefully, white inmates resisted anything that might indicate their racial stigmatization, and often opposed working alongside African Americans or Mexicans, unless that labor was on the baseball

diamond in California, or on the bandstand on the Texas radio airwaves, locations and labors I explore in detail below. In these domains, racial interaction was indeed possible and even potentially transgressive, though prison authorities, as well as white inmates, sought to reassure racial hierarchy at every turn.

Now that we have mapped the initial ways in which identity was produced and reproduced within prison walls, we can assess how criminality itself operated as a racialized and gendered category against that of the New Deal-era citizen.

Chapter 2

Criminals, Citizens, and Immigrants: The Regulation of Prison Labor and White Male Working Class Formation

On January 19, 1929, the Hawes-Cooper Act passed into law. Commonly known as the Convict Labor Act, Hawes-Cooper effectively limited the transportation of prison-made goods across state lines. Similar legislation had been fought over for years before its final passage. Congressional debate over Hawes-Cooper turned on the constitutionality of regulating interstate trade and recalled antebellum debates of states' rights versus federal power, but the most important components of the legislation turned around the axes of racial, gendered, and class identity in the first decades of the 20th century. Specifically, the contested terrain on which the law was passed centered on the racial and gendered dimensions of the figures of the criminal and the citizen, and their relations to each other, and state and federal government. At stake was the ability of citizens and corporations to influence state policy around an excluded other: namely, those convicted of a crime. In debates around prison labor, prison workers were discursively situated against "native" American workers, much as immigrants had been in the 19th century, and would continue to be after 1924 as "illegal aliens."¹ Similarly, prisoners and their labor were placed figuratively (or literally) outside the boundaries of

¹ Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004), and Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill: University of North Carolina Press, 1995), on the actual enforcement and contests around Chinese immigration and law.

the nation to which they belonged and the territories of the laws which they were accused of violating.

The operant racial and political oppositions of the antebellum period, as has been well noted by historians, contrasted white citizens against black slaves. As Grace Elizabeth Hale writes, "The old antebellum category of inclusion and power, citizenship, although defined most centrally against the figure of the slave, proved a weak identity in the new 'nation' and possessed class and gender hierarchies of its own."² As the axis of racial power shifted away from the antebellum black slave—white citizen opposition, new racial meanings erupted among European immigrants who had the ability to become fully white citizens. Indeed, throughout the later nineteenth century and well into the twentieth, racial hierarchies remained, Matthew Frye Jacobson argues, among the Anglo-Saxon, Jewish, Italian, and Irish whites.³ In the same historical period in which Jacobson describes a fractured whiteness along lines of descent (that would later be described as “ethnicity”), below I argue that there was a contemporary movement to define citizens racially against criminals. While this distinction was not entirely synonymous with racial difference, the criminal-citizen, and citizen-immigrant oppositions were nevertheless characterized by racial inflections and overlapped with a discourse of morality and immorality. Indeed, according to Michael Stephen Hindus, northeastern prison officials’ explanations for criminal behavior largely shifted toward a notion of “bad stock” in the period after the Civil War, thus

² Grace Elizabeth Hale, *Making Whiteness: The Culture of Segregation in the South, 1890—1940* (New York: Vintage Books, 1998), 5.

³ Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, MA: Harvard University Press, 1998).

conflating ethnoracial and behavioral categories.⁴ The foundational matrix of American race relations, which situated white citizens against black slaves, bifurcated between the 1840s and 1865. The rise of Nativism joined with reaction to African American emancipation to split the oppositional category of the “anti-citizen” from the slave into the racialized, socially dishonored categories of the criminal and the immigrant. Despite the vast differences among prisoners and immigrants, they became structurally homologous categories of social thought, posed against white male citizens.⁵ After the 1924 Immigration Act, and as a result of the Boasian intellectual development of “ethnicity” as a cultural rather than a biological paradigm,⁶ “immigrants” became those recently arrived Europeans who could become white Americans. “Illegal Aliens,” however, became the new and fully racialized category

⁴ Michael Stephen Hindus, *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina* (Chapel Hill: University of North Carolina Press, 1980). Thus, in the American context we might periodize the racialization of the immigrant and criminal in opposition to the white citizen loosely between 1840 and 1865, with the arrival of the famine Irish in the East and Chinese workers in California, the legal end of chattel slavery, and the 13th Amendment. These combined in the creation of American versions of Social Darwinism and subsequent criminological thought of men like Havelock Ellis, whose work on “Criminal Types” (which examined images of criminal’s ears, teeth, and the like) was explicitly biological, but which linked forced labor, social degradation, racial taint, and national otherness.

⁵ On structural homologies, see Raymond Williams, *Marxism and Literature* (Oxford: Oxford University Press, 1977), 105. Williams’ definition is that homologous structures “depend less on an immediately observable process than on an effectively completed historical and structural analysis, in which a general form has become apparent, and specific instances of this form can be discovered, not so much or even at all in content, but in specific and autonomous and finally related form.” This paper is a first step in that “historical and structural analysis,” in which the racial and gendered identifications of citizens, immigrants, and criminals developed. My goal here is less to prove the structural or experiential equivalence of immigrants and prisoner, but rather to use the relations of each to the state as a tool to better understand the other.

African American, Asian and Latino men and women were also excluded from the political category of the citizen, and from its substantive as well as formal rights and obligations. Women’s suffrage and African American and Chicano Civil Rights were movements for political inclusion that these foundational categories (and the people who occupied them) consistently tried to subordinate.

⁶ On paradigm of ethnicity as a historical development, see esp. Michael Omi and Howard Winant, *Racial Formations in the United States, From the 1960s to the 1990s*, 2d ed. (New York: Routledge, 1994), 14—24.

that the 19th century European immigrant had been. With industrial capitalist expansion, these racial and national differences were expressed through access to socially esteemed, high-paying industrial jobs, or through relegation to socially degraded, low-wage agricultural labor.

Protesting against competition with prison labor from the 1830s and through the twentieth century was part of the process of respectable white male working class identity formation, and were particularly the purview of the labor aristocracy that would solidify in the American Federation of Labor in the 1920s. Reasons justifying opposition to prisoners' labor operated on a spectrum anchored at one end in behavioral and moral terms, and in explicitly biological, Social Darwinist terms on the other. Though these rationales differed in significant ways, they operated very much in conjunction to exclude "servile and degraded" others from participation in the market as competitors.

Despite Reconstruction's short and unfulfilled promises, the second half of the 19th century offered a history of racial subordination in the name of the law. African Americans were arrested for vagrancy to fuel the New South's industrialization in the convict lease system, Mexicans were subjected to naked violence and domination by the Texas Rangers who called all Mexicans bandits and cattle thieves in processes of land enclosure and privatization, and Chinese laborers were maligned as shiftless, dangerous, opium addicts in California at the same time their labor laid the railroad track that unified that national economy. So too were protesting urban industrial workers in the Northeast tarred with the tropes of wildness and barbarism, that were used to justify

American Indian extermination in the West.⁷ In each case and each region, black southerners, Mexican Americans in the borderlands, striking Europeans in the Northeast, American Indians in the West, and Chinese immigrants on the West Coast were maligned as racially inferior to respectable whites, sexually degenerate, lazy as workers and a threat to national integrity. When combined with racism at every level of state formation and policing, these conditions landed entirely disproportionate numbers of racialized people behind prison walls.

Yet crime and punishment were not just instruments of racial control, but of class control, too, and many poor whites found themselves on the wrong side of the prison gate. As such, any white man who committed crimes was understood by his non-criminal peers as racially and morally tainted by his immoral and illegal behavior; this racial taint would be further compounded by his spatial proximity to racial others in criminal economies and behind bars. Conversely, when African Americans, ethnic Mexicans or Chinese and Filipino Americans were convicted for crime, they were legally placed into the preexisting racial imaginaries of moral and biological degeneracy held by the white working classes and their representatives in government. Michel Foucault argued that one function of prison was to produce delinquency; here, we can see how the regulation of so-called delinquents' labor produced normative citizenship.⁸

In the Congressional debates and legislation I examine below, those who encouraged the expanded use of prison labor invoked the language of teaching

⁷ Richard Slotkin, *Gunfighter Nation: The Myth of the Frontier in Twentieth-Century America* (New York: Maxwell Macmillan International, 1992).

⁸ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1979).

productive, patriarchal citizenship to criminals. While these prisoners may have fallen, they reasoned, productive labor and sound correction would teach them the habits of industry and the responsibilities of productive citizenship. For those who wanted to expand industrial prison labor opportunities, redeemable prisoners were effectively coded as white.

Opponents of industrial prison labor referred to prisoners in racially coded terms, emphasizing prisoners' laziness, immorality, and fall from good legal standing. They wanted to limit prison labor to protect citizens, who, in opposition to racialized criminals, were coded implicitly as white and explicitly as male breadwinners. Anti-convict labor advocates, either industrial manufacturers or organized wage workers, wanted to limit convict labor in order to protect the prerogatives of white male citizenship, which included well-paid, socially-prestigious industrial labor.

In each case, legislators, prison officials, and unionists invoked similarly raced and gendered versions of citizenship and its converse, criminality. Citizens were those white males who earned wages to provide for and control their own families. The tension between the two positions on the use of convict labor and the racially coded language they used depended largely, but not solely, on the financial stake that each speaker had in prison labor: when prison officials or state officers stood to gain from the labor of prisoners, they situated prisoners as manly white citizens-in-training. But when industrial workers, manufacturers, and their advocates had the floor, they argued

that prisoners must be excluded on behalf of the whiter, and more deserving, male citizens who still stood in the state's good graces.⁹

Free Labor Ideology and the 13th Amendment: Racial Demarcation and Forced Labor in a Post-Emancipation Society

The Civil War remains a contentious subject of debate in America, less for the intrinsic complexity of its contemporary struggles than for the meanings of race and nation that its memory calls forth. Most celebrate it for ending the horrors of slavery and saving the Union from dissolution, and for freedom's triumph over injustice. In most reckonings, the freedom described is clearly understood as the victory of a system in which everyone has the ability to work for themselves, to profit from their own labor, and to move where they chose in order to make a better life. This is the substance of the American dream, too long denied African Americans under slavery. After the Civil War, the Federal Government became the guarantor of equal rights under the law, and the end of slavery and forced labor. Freedom's meanings after the Civil War were

⁹ My understanding of citizenship as a concept and practice is informed by Evelyn Nakano Glenn's *Unequal Freedom: How Race and Gender Shaped American Citizenship and Labor* (Cambridge, MA: Harvard University Press, 2002). Following T. H. Marshall's definition, Glenn identifies three modes of citizenship: *political* (which allows for participation in elections and state-based political processes); *civil* (which Marshall defines as "the rights necessary for individual freedom – liberty of the person, freedom of speech, thought, and faith, the right to own property and conclude valid contracts, and the right to justice"); and *social* (which, in Marshall's terms, encompassed "the whole range from the right of a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society."). Based on these definitions, prisoners were definitively not citizens of the United States. Glenn, *Unequal Freedom*, citing Marshall, 19. Yet within the context of the prison itself, white prisoners were nonetheless demanded and granted what Marshall would have called social citizenship. They could hardly vote (though there were gestures toward inmate self-governance in "progressive" states like New York or in California's Inmate Welfare League), but they were nonetheless socially prestigious. Black, ethnic Mexican, Chinese, Japanese, and Filipino prisoners were also denied such social citizenship based on their race, even within the prison. Thus the notion of "civil death" does seem appropriate for prisoners, but especially so for the non-white.

polyvalent, but high on the list was the ability for people to own their labor, to quit a job and move to another. Legally, another prominent definition of freedom in the nineteenth century was the ability to vote or to sign a contract, be it one to engage in wage labor relations, or to get married.¹⁰ Few have analyzed in depth why American prisoners could do none of these. Indeed, prisoners' legal disenfranchisement has remained largely unquestioned in American thought.

And few remember that "slavery" was not outlawed with Union victory. For all the beneficence it accomplished, the 13th Amendment reads: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Such slavery is permitted to exist in the United States for those who have broken the law.

The form of slavery that dominated the antebellum South was a hierarchical social system of labor extraction and bondage based on race and lines of descent – a matter of social death and natal alienation, in Orlando Patterson's memorable terms. Though conviction for crime did not allow for the permanent incarceration of prisoners' children (though it was logically consistent that eugenicists wanted to sterilize criminals or their children), the civil death of criminal punishment allowed prisoners literally to be driven like slaves, as unfree, unwaged workers.¹¹

¹⁰ On contract as the measure of freedom after the Civil War, see Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998).

¹¹ Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, MA: Harvard University Press, 1982), esp. 43-44. In Patterson's terminology, criminals differ from slaves in that

The labor needs of Southern plantation economy linked the racial thought and domination rooted in black subordination and white supremacy.¹² Much like the system of slavery that preceded it, the 13th Amendment's permitted persistence of forced labor "as a punishment for crime" defined a reciprocal process through which forced labor became a factor in defining the meanings of race, freedom, and its relation to waged labor. Historically mutable definitions of "crime" have proven to be a hinge in American legal and racial thought linking discourses of morality with discourses of

criminals who are forced to labor are understood within an "extrusive conception of slavery, where the slave [forced laborer] is the insider who has fallen" rather than an intruder into the conceived bounds of society. In the antebellum period, slaves were considered outsiders kept beyond the racial boundaries of Southern society. After the Civil War, when former slaves were understood as legally free, processes of criminalization emerged as both a measure of social exclusion and charting the boundaries of a new racial formation. This was also noted by Bryan Eustis Wagner, "Disturbing the Peace: Black Vagrancy and the Culture of Racial Demarcation," (Ph.D. dissertation, University of Virginia, 2002). However, in this chapter I am less concerned with positing a formal classification of types of slavery (intrusive versus extrusive, as Patterson attempts) than I am with understanding how discourse around forced and free labor articulated with processes of racial formation and hierarchy in relation to citizenship, criminality, and alien status. In any case, it does appear that following periods of de jure racial equality and citizenship, the criminalization of racialized populations reasserts racial hierarchies and dominating consequences for the racialized to divest formal citizenship from those marked as non-white. See Alex Lichtenstein, "The private and the public in penal history: A commentary on Zimring and Tonry," in David Garland, ed., *Mass Imprisonment: Social Causes and Consequences* (London: Sage Publications, 2001), 171—178, esp.176.

¹² Barbara J. Fields, "Ideology and Race in American History," eds. J. Morgan Kousser and James M. McPherson, *Region, Race, and Reconstruction: Essays in Honor of C. Vann Woodward* (New York: Oxford University Press, 1982), 143-177. Fields and David R. Roediger have continued a running debate on the modes and methods of racial power in the United States. Fields maintains that race is an ideological differentiation that is, in the final analysis, secondary to the material reality of class. Roediger suggests that race and class are equal and connected categories which ought not to be prioritized. Such prioritization and subordination risks devaluing one mode of analysis beneath another. David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class* (New York: Verso, 1993), 7-8. Though Ira Katznelson's description of "levels of class formation" does not address race, we can see that Fields prioritizes the "objective" and "experience-distant" levels of analysis over those through which class relations are actually lived. Like Roediger, I believe subordinating race to class as an analytical category does little to help explain the imbricated nature through which class, race, and political economies are made. For Katznelson, see "Levels of Class Formation," in Patrick Joyce, ed., *Class* (New York: Oxford University Press, 1995), 142—149. (Originally in *Working Class Formation: Nineteenth-Century Patterns in Western Europe and the United States*. Princeton: Princeton University Press, 1984). On the articulated nature of race and class, see Stuart Hall, "Race, Articulation, and Societies Structured in Dominance," in *Sociological Theories: Race and Colonialism* (Paris: UNESCO, 1980), 305 – 345.

race, expressed in labor law through the ability to control one's own labor as a legal subject.¹³

The connections are most evident in what historian Eric Foner described as *free labor ideology*, a persistent body of thought linking conceptions of race and white racial privilege to waged labor, and the prerogatives of citizenship's protection by the Federal government. In *Free Soil, Free Labor, Free Men*, Foner described two key components of antislavery thought in the antebellum North. One was moral antislavery, the purview of a handful of radical abolitionists (not to mention slaves themselves), which held that chattel slavery was a moral wrong that must be opposed at all costs. Foner described the second, much more broadly held Northern belief, as "political antislavery." Political antislavery held no moral visions of social equality. Rather, most adherents of political antislavery were opposed to slavery on the grounds that it posed a very real threat to the future of white working men in the United States. To most Northerners, then, slavery was a problem largely due to the threat it posed for the future of white male wage earners, landholders, and small manufacturers who feared competition with slave owners as much as they hated African Americans themselves.¹⁴

As with slaves, so too with criminals. In the same years that political antislavery took root among the Northern working classes, so too did their opposition to prison

¹³ Loïc Wacquant argues that after the "inceptive matrix" of slavery produced the main contours of American racial thought, Jim Crow segregation, ghettoization, and mass incarceration have followed in managing and reproducing racial domination. "From Slavery to Mass Incarceration: Rethinking the 'race question' in the US," *New Left Review*, Vol. 13 (Jan-Feb 2002). Yet Wacquant's formulation does not recognize the ways in which western expansion, combining American Indian genocide, ethnic Mexican repression, and Asian immigrant subordination also contributed to the inceptive matrices of American racial power and later, incarceration.

¹⁴ Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York : Oxford University Press, 1995).

labor grow. According to historian Glen Gildemeister, the contract system of prison labor, where prison officials offered private contractors the ability to hire prisoners and use penal spaces to manufacture goods, "grew to maturity" in the 1830s and 1840s. Expanding prison contracting in this period prompted northern wage workers to protest at the same time that political antislavery grew in volume and significance. Protest was particularly strong in the northeast.¹⁵

Labor unionists organizing against prison labor borrowed heavily from the practices animating the broader antislavery movement. Indeed, in 1835, one free labor advocate in the New York State Assembly sought to limit prison labor competition with free laborers by sending prisoners to a penal colony on "some part of the coast of Africa."¹⁶ This suggestion made clear links between Northern abolitionists who desired an end to slavery as well as the expulsion of African Americans from the U.S., and free labor ideologues and advocates of organized, waged labor for the white working class.

Each sought similar tactics of expelling undesirables from the U.S., and from competition with the citizens of the Jacksonian republic. At the same time, another aspect of the New York Assembly decision in 1835 attempted to limit prisoners to producing only those goods that were imported from abroad, and thus prohibit prisoners from producing goods that were manufactured by U.S. workers.¹⁷ Whether they were to be expelled to a distant land or their labor was to be limited to making goods already

¹⁵ Glen A. Gildemeister, *Prison Labor and Convict Competition with Free Workers in Industrializing America, 1840-1890* (New York: Garland Publishing, 1987), 128.

¹⁶ The quote is Joseph P. Simpson's. New York Assembly, *Report of the Majority and Minority of the Select committee on the Governor's Message Relative to State Prisons*, A. Doc. 330, 1835, 1, 9, 19--20. Cited by Gildemeister, 134.

¹⁷ Gildemeister, *Prison Labor and Convict Competition*, 134.

produced elsewhere, prison workers were situated against and outside of "native" American workers, whose labor, livelihoods, and citizen status should have exempted them (they believed) from competition with either a racially-denigrated, or a morally-tainted labor source.¹⁸ During Reconstruction and Redemption, the two ideologies became more fully intertwined.

Chinese Exclusion and California's Anti-Convict Leasing Movement

From Reconstruction to the Gilded Age, tension remained high between the racial components of free labor ideology and the fears of competition with racialized and degraded workers in the United States. Alexander Saxton has provided one of the best accounts of racial anxiety and the fear of immigrants in his discussion of the Chinese Exclusion movement in California. As Najia Aarim-Hariot recently demonstrated, racist discourse common to both government and newspapers maligning African Americans was quickly painted onto Chinese immigrants – a process that others

¹⁸ Despite the thoroughness of his study – and it is the only history of organized labor's protests against convict labor in the Northeast – Gildemeister does not see any racial components to free labor protests and the regulation of inmate labor in the 19th century. Indeed, race hardly exists as an analytical category in his otherwise fine book. Racial power was, I believe, central to understanding not only how prisons functioned in American society, (even as early as the late 18th century) but also how organized workers conceived of themselves as citizens, and the ways through which their self-conceptions became manifest in political movements and expressions in the States they tried to be a part of. Some scholars have made the case that in the 1830s and 40s there was little explicit racial ideology in Northern prisons. According to Michael Hindus' *Prison and Plantation* and David Rothman's *The Discovery of the Asylum*, there was relatively little concern with race or "stock" in penitentiaries until after the Civil War. But perhaps at this time it was more linked to nationality, likely so, and especially after Ireland's potato famine brought tens of thousands of rural immigrants to the U. S. I tend to agree with Matthew Frye Jacobson's *Whiteness of a Different Color*, however, and contest the idea that race was not present, arguing instead that it played a very real role in these years, and especially in how white waged workers situated themselves and their labor against prisoners and multiple immigrant populations through these years.

have referred to as the “Negroization” of the Chinese.¹⁹ Journalists, white workers, and legislators paired the racisms against African American urbanization and northern travels and Chinese immigrants in American politics in the creation of Chinese Exclusion. Chinese immigrants and newly mobile African Americans were scorned for their supposed threat to white male workers’ wages, and their putative inability to participate in representative government. In each case, white supremacy was the fulcrum around which racial discourse and the creation of hierarchy and stratified labor markets turned. If Chinese immigrants and African Americans alike were demeaned as “servile and degraded races,” American criminals, regardless of race, were seen by white workers as unruly and degraded, who, by the conditions of their punishment, were rendered servile and thus exploitable. Like Chinese immigrants and African Americans, white workers feared that prisoners would lower the floor on free workers’ wages. Regardless of a criminal’s race, this, along with the moral taint of their conviction, effectively disowned them from the ranks of free and respectable workers.²⁰

Organized workers felt increasing economic pressure in the long depressions of the 1870s and 1880s, and not infrequently displaced their financial anxieties onto African Americans, multiple immigrant groups, and prisoners. According to one

¹⁹ See Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: University of California Press, 1971), Tomás Almaguer, *Racial Faultlines: The Historical Origins of White Supremacy in California* (Berkeley: University of California Press, 1994), Introduction; Robert G. Lee, *Orientalists: Asian Americans in Popular Culture* (Philadelphia: Temple University Press, 1999).

²⁰ Among the growing literature on white workers’ claims of republican virtue, their racial privilege, and their “independence” as workers, in order to justify racial exclusion and job hierarchy, see Roediger, *Wages of Whiteness*, Evelyn Nakano Glenn, *Unequal Freedom*, Najia Aarim-Heriot, *Chinese Immigrants, African Americans, and Racial Anxiety in the United States, 1848–82* (Urbana and Chicago: University of Illinois Press, 2003).

scholar, "Prison labor accentuated the pressure of immigration and economic depressions" in the 1870s and 1880s, and free workers felt an acute threat to their livelihoods. In 1883, the Cigarmakers' Progressive Union complained before the U. S. Senate that they were under siege from all sides: from "women and children in tenements, Asian coolies in ghettos, [and] convicts in prisons[, who] had all but destroyed any reasonable wage."²¹ To organized workers struggling for their livelihoods against capitalist exploitation and the loss of control on the shop floor, the threats they felt revealed the foundations of industrial masculinity and white citizenship. Women, children, and racial immigrants in cities, and prisoners behind bars, all posed a threat to their identities as white men and free laborers, capable of earning a family wage (thus protecting their patriarchal positions at home). These white, male, industrial workers marked the numerous gendered and racial others in order to more fully protect their own racial, gendered, and economic privilege. As many scholars have made clear, their desire to maintain a "reasonable" family wage bespoke the desire to control their wives' and children's labor in the home.²² When they raised the call to protest these conditions, they did so by mobilizing through the governments they supported, and which they believed should support them.

In addition to Chinese Exclusion, the 1880s saw widespread political opposition to convict labor across the country. In California, where anti-Chinese racism proved foundational to white working class identity, white workers and manufacturers

²¹ Gildemeister, *Prison Labor and Convict Competition*, 155-6, 150.

²² See Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York: Oxford University Press, 1994), Ava Baron, ed. *Work Engendered: Toward a New History of American Labor* (Ithaca: Cornell University Press, 1991).

exercised their rights as citizens by compelling the State government to outlaw for-profit convict labor in their penitentiaries. Indeed, legislators added Section 6, Article 10, to the California Constitution in the same year that the Chinese Exclusion Act became national law: “After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the state.” Just four years later The National Anti-Contract Convict Labor Association met in Chicago (holding its first and only meeting), and brought together concerned manufacturers and labor unions to oppose the contract system in prisons.²³

When capitalists and workers found common cause against prison labor, they passed legislation similar to California’s. By 1890, Massachusetts, New York, Pennsylvania, Ohio, Indiana, and Illinois had all abolished the contracting of prison labor.²⁴ Indeed, just as anti-Chinese racism became an important component of white working class political and racial identity, movements against prison labor became a “coagulant” in organizing manufacturing and industrial workers who had previously understood themselves as having little in common. Competition with prisoners highlighted their identities as free wage laborers against unfree and degraded others, much in the way that antebellum free labor ideology linked manufacturers, agricultural,

²³ Gildemeister, *Prison Labor and Convict Competition*, 218.

²⁴ *Ibid*, 249.

and wage workers in common cause.²⁵ As citizens, these free workers demanded their rights to express their consternation to their government.

The San Quentin Jute Mill presents a case in point. Opened in April 1882, a Penological Commission document described the many purposes the Jute Mill would serve: The Jute Mill would "give empowerment to all or nearly all of the convicts of our larger prison, will make a handsome profit, will aid in the farming interests of our State, and will not interfere to any appreciable extent with free labor."²⁶ An 1889 pamphlet entitled *The Convict Labor Question in California* protested the uses of inmate labor as harmful to the free workers of the state. Its anonymous author explained the predicament caused by the jute mill in operation at San Quentin. The author cited prison officials' belief that the jute mill posed no threat to California's workingmen, because no jute was manufactured by white workers in the state. The only jute mill nearby was a factory "in Oakland [that] employed Chinese labor," and thus the jute mill posed no competition to white workers. Nevertheless, the author disagreed with official rationale. Instead, the author argued that the only reason the Oakland jute mill used Chinese employees was because they had to compete with the prison. Without this degraded and cheap competition, "they could discharge their few remaining Chinese and employ white help in their stead." Furthermore, the author continued, "If the prison jute mills are extended, there will be more Chinese employed outside, not fewer."

²⁵ Ibid, 198.

²⁶ The 1887 Penological Commission document is cited in Barbara Jeanne Yaley, "Habits of Industry: Labor and Penal Policy in California 1849-1940," (Ph.D. Dissertation. University of California at Santa Cruz, 1980), 87-88.

Importantly, both Chinese and prisoners labor were rendered equivalent and homologous in their threat to the white male working class.²⁷

The most significant feature of Gilded Age workers' protests was that as citizens in a democracy, they demanded that their voice be heard in the halls of government. In 1880, a Trades Union Assembly member extolled the virtue and dignity of organized labor: "The mechanic obeys the laws made by the State, pays his taxes, and in case of riot or rebellion goes forth for its defense. The State in return owes him protection to his industries, that he must have if he would live at all."²⁸ Here, in describing why prison labor should be circumscribed, this trade unionist described the mutual rights and obligations of citizens and their states. When a member of society no longer obeyed the law, they stepped outside of the state's protection. In the eyes of these labor unionists, criminals became literal outsiders, who did not deserve the same benefits from the state that citizen workers demanded in hard times.

In short, criminals offered citizens a category against which to define themselves, and allowed the white working class to distinguish itself as both "free" and "respectable," rather than such unfree, immoral, and degraded subjects – including canal navies, racialized immigrants, and common criminals. While these members of the ascendant labor aristocracy demanded respect from their states as a result of their

²⁷ *The Convict Labor Question in California*, published for the author (no name given), 1889. Archived in "Pamphlets by California Authors", F862 P19 v4 x, pamphlet 11, Bancroft Library, University of California at Berkeley.

²⁸ Cited by Gildemeister, *Prison Labor and Convict Competition*, 255.

republican virtue, they also expected not to be placed in competition with those who willingly or not, were excluded from society.²⁹

Despite their importance to political economic modernization, the convict lease and contract systems came under fire from a panoply of forces toward the end of the nineteenth and the first years of the twentieth century. High among these forces were organized working class protest, elite philanthropist and Progressive humanitarian movements to protect the poor and oppressed, and the transformation of labor markets that depressed wages. The last of these, according to Matthew J. Mancini, proved to be the most important.³⁰ By the 1910s, wage levels fell to the point where employing prisoners – who generally worked as slowly and uncooperatively as they could – was no longer profitable. When Progressive investigators and muckraking journalists exposed brutality in prisons and demanded that governors and legislators take corrective action

²⁹ David R. Roediger employs the term “herrenvolk republicanism” to describe white workers’ racism as it related to their own claims to republican citizenship. “*Herrenvolk* republicanism had the advantage of reassuring whites in a society in which downward social mobility was a constant fear - one might lose everything but whiteness,” 60. Yet Neil Foley’s, and, less explicitly, James N. Gregory’s analysis of poor whites and Okies has demonstrated that whiteness, too, could be threatened, and decent into “white trash” was indeed possible. However, unlike Chinese or black Americans, white criminals were thought to be less debased for their inability to participate in representative government than they were degraded for their immorality. However, in an intellectual-criminological terrain that sought biological roots to explain criminality, morality and biology consistently intermingled, even though white prisoners were the very first to proclaim their whiteness. See Roediger, *The Wages of Whiteness*, Foley, *The White Scourge*, Gregory, *American Exodus*. On labor republicanism, see Sean Wilentz, *Chants Democratic: New York City and the Rise of the American Working Class, 1788—1850* (New York: Oxford University Press, 1984); William E. Forbath, *Law and the Shaping of the American Labor Movement* (Cambridge, MA: Harvard University Press, 1991) and “The Ambiguities of Free Labor: Labor and Law in the Gilded Age,” *Wisconsin Law Review*, (1985). On critiques of republicanism, see Peter Way, *Common Labor*. Amy Dru Stanley and Karin Shapiro suggest that at times, organized workers felt more substantial kinship with prisoners as degraded members of the working class, but members of the working class nonetheless. See Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998), 98—137; Shapiro, *New South Rebellion: The Battle Against Convict Labor in the Tennessee Coalfields, 1871-1896* (Chapel Hill: University of North Carolina Press, 1998).

³⁰ Mathew J. Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Columbia: University of South Carolina Press, 1996).

through an expertly-administered and humanitarian state, the convict lease withered across the South. State governments now assumed fuller control of their prisoners. Where a contractor once stood guard and directed prisoners' labor, a state officer now held the whip and planned the crops. That this did not put an end to brutality mattered relatively little to many of the original reformers. The primary difference was that prisoners were set to work on state-owned farms and roadways, rather than for private investors.³¹ The demise of the Southern convict lease came about because of elite humanitarian concerns and public brutality scandals, conjoined by falling labor costs. Organized labor, we should be little surprised, played a much smaller role in the South than it had in the more industrial northeast and west.

As Reconstruction surged and stumbled forward, forced labor in the Southern convict lease went side by side with similar programs in the north and the west, much to the consternation of wage workers. Southerners, black and white alike, had few opportunities to protest convict competition, but when they did, they could do so with some considerable force. Tennessee Coal miners were so incensed at competition with prisoners that they engaged in full fledged war with agents of the Tennessee Coal and Iron Company, at one point freeing prisoners and setting their bunkhouse on fire.³²

³¹ Paul M. Lucko, "Prison Farms, Walls, and Society: Punishment and Politics in Texas, 1848-1910," (Ph.D. Dissertation, University of Texas at Austin, 1999). Robert Reys Perkinson "The Birth of the Texas Prison Empire," (Ph.D. dissertation, Yale University, 2001), agrees in the broadest strokes with Lucko, but further argues that the end of the lease was a development in Progressive Era white supremacist differentiation of white prisoners from African Americans and ethnic Mexicans. My own analysis tracks more closely with Perkinson's than Lucko's on this matter. See Chapter 1, and above.

³² Karen Shapiro's *New South Rebellion* is the most extensive treatment of the Tennessee coal miners' rebellion, but see also C. Vann Woodward, *Origins of the New South, 1877-1913* (Baton Rouge Louisiana State University Press, 1951).

The Hawes-Cooper Act

Support for Hawes-Cooper: “The Three Great Elements of Society”

Missouri Democratic Senator Harry B. Hawes framed his bill as a part of the long progressive movement away from barbarism and brutality. The Hawes-Cooper Act was, he opined, a "necessary step in a national program of prison reorganization which began some years ago with the abolition in a majority of states of the obnoxious contract system, but which [had] been delayed" by the ability of some states to sell prison made goods in others that had moved to the state-use system.³³

In lengthy Senate Floor testimony, Hawes argued that the bill was “supported by three great elements of society”: labor, manufacturers, and Women's Clubs and philanthropists.³⁴ The three elements of society Hawes celebrated were, indeed, vital contributors to what would become the New Deal, and may rightly be understood as anticipating many of the New Deal's strengths and failures.³⁵

Firstly, the American Federation of Labor (AFL) firmly supported Hawes-Cooper, in 1929 calling the Act “the most effective legislation ever secured by Labor.”³⁶ The racially exclusionary nature of the AFL in the early decades of the twentieth century are increasingly clear, when they advocated racialized immigration restriction and were champions of the 1924 Immigration Act. When Hawes described

³³ *Congressional Record*, 70th Congress, 2d Session, 1928—29, 70, Part 1:655.

³⁴ *Ibid*, 654.

³⁵ In bringing together these three elements, we find underscored David Harvey's description of a Fordist-Keynesian period of production, in which capital, labor and the state came into accord over contentious issues to reach an amicable, and salubrious, agreement. While Harvey, as a theoretician and geographer, did not fully account for the role of philanthropists, Cindy Hahamovitch's monograph *The Fruits of the Labor* more fully traced the Progressive Era roots of New Deal reforms.

³⁶ American Federation of Labor, *Report of Proceedings of the Forty-Ninth Annual Meeting of the American Federation of Labor* (Washington, D. C.: The Law Reporter Printing Company, 1929), 91.

the AFL's position vis-à-vis convict labor, he argued that "the products of convicts...bring about a ruinous competition with the labor of free American citizens...."³⁷ In Hawes' words, the fact of degrading competition between free and prison workers was so blatant that it barely needed to be mentioned: "The disparity in wages paid prisoners and those paid free labor need not be discussed, as the facts borne out by testimony are matters of common knowledge."³⁸ As numerous scholars have made clear, the racial and gendered connotations of "free labor" were also a matter of common sense.³⁹ Indeed, previous House testimony by Missouri's Representative Combs cited the shoe industry as an illustration of how free workers were undermined by convict labor. "In the average shoe factory run by a contractor under the lease system, the convict is paid 5 or 6 cents a pair. He receives for a week's work a sum rarely in excess of \$1.90. Necessarily, the margin between this \$1.90 and the price which would be paid a free laborer is either the contractor's artificial margin of profit or the zone in the range of which he can safely depress his prices and stifle competition from free-labor sources. In the case of shirt manufacturing, I believe, the figures show the cost of prison labor to be approximately one-third of that of free labor."⁴⁰ When Iowa Representative Cole heard the wages paid to these prison workers, his response

³⁷ *Congressional Record*, 70th Congress, 2d Session, 1928—29, 70, Part 1:654.

³⁸ *Congressional Record*, 70th Congress, 2d Session, 1928—29, 70, Part 1:655.

³⁹ On the implicit white racial and male gendered privileges associated with the idea of "free labor," see especially David R. Roediger, *The Wages of Whiteness*. For the New Deal years, see Evelyn Nakano Glenn, *Unequal Freedom*, Alice Kessler-Harris, *In Pursuit of Equity*, Linda Gordon, *Pitied but Not Entitled*. My use of "common sense" here is indebted to Antonio Gramsci's description of hegemonic thought as outlined in his *Selections from the Prison Notebooks*.

⁴⁰ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8659.

expressed the tradition of the Knights of Labor and the language of free labor ideology:

"That is worse than slave labor."⁴¹

New Yorkers were especially keen to support Hawes-Cooper, and especially members of its organized working class. Organized Photo Engravers, Textile Workers, Meat Cutters, Boot and Shoe Workers, Stonecutters and Bakers all sent resolutions to Congress in support of Hawes-Cooper.⁴² So too did New York and New Jersey Legislators send their support for the bill. They, like other officials in states that outlawed the sale of prison-made goods on the open market, had opposed convict-made goods coming into competition with manufacturers and free laborers in their states.⁴³

Secondly, and at least as important in motivating Congress to act, a collective of manufacturers argued that "prison-made products" created conditions in which "the entire competitive market is demoralized" and "the products of free manufacture are forced into ruinous competition with goods made by convicts."⁴⁴ The language of *demoralized* markets would ring truer still in the coming depression years. Indeed, Hawes-Cooper's boosters might have cited what a shoe manufacturer said about prison competition in the 1880s: "In lively times, the effect [of prison labor] is unnoticeable. In depressed times; it is ruinous."⁴⁵

Thirdly, Women's Clubs, prison reformers, and advocates for the blind supported Hawes-Cooper. The General Federation of Women's Clubs supported the bill

⁴¹ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8659.

⁴² *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 4:4373; *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 5:5024.

⁴³ *Congressional Record*, 70th Congress, 1st Session, 69, 1928 Part 4:4373.

⁴⁴ *Congressional Record*, 70th Congress, 2d Session, 1928—29, 70, Part 1:654.

⁴⁵ Cited in Gildemeister, *Prison Labor and Convict Competition*, 163.

on the “broad humanitarian ground” that under existing prison conditions, “proper reform in the prisons of the Nation were being frustrated” by commerce in inmate-made goods. Like their women’s clubs counterparts, advocates of the blind argued that broom making, a job they said was particularly well suited to blind people, was being ruined by convict competition.⁴⁶

All of these elements agreed, however, that prisoners should work, and that labor was a necessary discipline for errants. But each prisoner, Hawes reasoned, should work “for the benefit of the State, for his own welfare and rehabilitation, and for the care of his family,” rather than in “ruinous competition with both free labor and invested capital.”⁴⁷ The solidification of “state-use” for prison labor was the ultimate goal, in order to protect the white male industrial working class, and their employers, from this degraded competition.

Labor, capital, and philanthropists were the protagonists in the struggle that Hawes described. And, as in every moral struggle, there needed to be a villain. For Hawes-Cooper, the villain was the prison contractor. The prison contractor, he argued, was the “remnant of a system discarded by a majority of the states,” “the middleman profiting both from the State and the prisoner. He should be eliminated as a factor in the prison problem.”⁴⁸ And while various prison officials had testified against the bill, each of those officials, Hawes argued, worked for institutions that used prison

⁴⁶ *Congressional Record*, 70th Congress, 2d Session, 1928—29, 70, Part 1:654. On the importance of club women in 1920s prison reform, see Paul M. Lucko, “TEXAS COMMITTEE ON PRISONS AND PRISON LABOR.” The Handbook of Texas Online. <<http://www.tsha.utexas.edu/handbook/online/articles/view/TT/mdtva.html>> Accessed Tue Jun 22 17:04:23 US/Central 2004.

⁴⁷ *Congressional Record*, 70th Congress, 2d Session, 1928—29, 70, Part 1:654.

⁴⁸ *Ibid*, 655.

contractors and thus had been corrupted by the prison contractors' allures and finances. "The passage of the bill will benefit the State and the prisoner. It will injure the prison contractor."⁴⁹

Hawes furthered the Progressive vein of the bill when he railed against any supervision of prisoners by prison contractors. "[T]he control and direction of prisoners should not be delegated to anyone except responsible officials of the State, and no contractor or selling agent should have anything to do, directly or indirectly, at any time with the prisoners' supervision."⁵⁰ By attacking the unscrupulous contractor, none of whom, Hawes made clear, had even bothered to try and defend their practices before Congressional committees, Hawes offered a Progressive vision of the state oversight of prisoners, and encouraged the state's expanded role in punishment rather than contracting this role out to the market. These expanded horizons of state authority into the oversight of prisoners and the regulation of their labor – both of which had previously been more fully in the realm of the market – prefigured relations to come in the New Deal.⁵¹ Hawes-Cooper resuscitated the specter of immigrant padrone in the figure of the prison contractor, to offer an archaic foil for their progressive vision and a

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ The privatization of punishment in the 1980s and continuing unabated to the time of this writing – both in the private hire of prison laborers and the contracting of prisoners out to corporations such as Wackenhut and the Corrections Corporation of America – also signals the end of what some have identified as the “New Deal Order,” and which others have called the Fordist-Keynesian period of capitalist accumulation. See Steve Frasier and Gary Gerstle, eds. *The Rise and Fall of the New Deal Order, 1930—1980* (Princeton: Princeton University Press, 1989), and David Harvey, *The Condition of Postmodernity: An Inquiry in the Origins of Cultural Change* (London: Blackwell, 1990).

villain against whom to rail.⁵² But leasing prisoners to private contractors in fields or factories was anything but archaic. As Alex Lichtenstein and others have made clear, the southern convict lease was literally foundational for the modernization and industrialization of the Southern political economy.⁵³ Much like the structurally parallel figure of the immigrant padrone just a few years earlier, the imagery of prison contractors who exploited prisoners, undersold free employers and drove down the wages of “free labor” brought together anxieties and allowed the apparent resolution of contradictions and ambiguities in the differences between free and coerced labor, in fears of crime and urban disorder, as well as ethnic and racial antagonisms in the wake of the northward black migration, and in the aftermath of immigrant restriction in a bloated industrial capitalist economy.

However, Hawes’ indictment of the shadowy prison contractor was something of a misdirection. As proponents of Hawes-Cooper stressed time and again (in order to maintain its constitutionality), the legislation posed no direct threat to prison contractors or to the prison lease. Rather, Hawes-Cooper merely enabled various states to prohibit convict made goods from being sold in the specific territory of their state, if they so wished. Hawes-Cooper explicitly and deliberately said nothing about how, or by whom, state prisons were to be run, to what ends prisoners’ labor was to be put, or how that labor was to be mobilized. Hawes-Cooper would merely enable states to enforce their

⁵² Gunther Peck, *Reinventing Free Labor: Padrones and Immigrant Workers in the North American West, 1880-1930* (New York: Cambridge University Press, 2000), 113.

⁵³ Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996), Stanley B. Greenberg, *Race and State in Capitalist Development: Comparative Perspectives* (New Haven: Yale University Press, 1980).

own laws on goods imported into their states. Nevertheless, the prison contractor offered Hawes-Cooper a fitting villain against which the goodness of the regulatory state and its officials could play.

Opposition to Hawes-Cooper: “Unwise, Unnecessary, Unconstitutional”

Much of the opposition to Hawes-Cooper came from prison officials. In expressing their concerns, a committee of prison officials sent a letter to the Senate protesting Hawes-Cooper, declaring in no uncertain terms that they thought the Hawes-Cooper bill was “unwise, unnecessary, and unconstitutional.”⁵⁴ Though they vastly overestimated the impact that Hawes-Cooper would ultimately have on the working of prisons themselves, they nevertheless feared that without labor for prisoners, prisons would descend into bedlam.

Though Hawes situated the only opponent of Hawes-Cooper as the prison contractor, actual opponents were both more real and more complex than unscrupulous prison contractors. More significant opponents were the many prison officials who feared that their prisons would fall into chaos when inmate labor was curtailed. So too did many, mostly Southern, state officials fear that the potential loss of revenue from agricultural sales would drain their states’ meager financial coffers. Congressional opponents of Hawes-Cooper chose five principal lines to undermine the bill. The first

⁵⁴ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 6:6057-8. The letter was signed by some forty seven prison officials and board members. They were mostly Midwestern and northeastern prison officials: Rhode Island, Connecticut, Missouri, Iowa, Indiana, New Hampshire, Nebraska, Washington D. C., Vermont, Wisconsin, Michigan, Minnesota; four southerners: Alabama, Florida, North Carolina, South Carolina. Western: Wyoming, Idaho; Southern "border states": West Virginia, Kentucky, and Maryland.

strategy attacked the notion that Hawes-Cooper would protect free labor from competition with prison labor. Even the state-use system, they maintained, competed with free labor. Second, they argued that the amount of convict labor actually performed in the United States was negligible in relation to the rest of national production, and its effects in driving down wages or prices was so slight as to be inconsiderable. Third, the risks of idleness for prisoners – in breeding worse criminals, in not teaching them good work habits, in literally driving them mad – greatly outweighed the minimal gains to free labor and industries. Fourth, the loss of revenue to prisons would raise taxes, thereby burdening states and their taxpayers. Finally, even when these arguments failed to stem the tide of support for the bill, opponents argued that Hawes-Cooper was unconstitutional and violated first, the commerce clause of the constitution, and second, the 10th amendment's separation of powers.

Other opponents to Hawes-Cooper feared that if the legislation passed, a flood of other labor-oriented laws would be passed. Such alarmist rhetoric claimed that under pressure from organized labor, states might disallow goods made by other undesirable workers, or by anyone whose cheap labor undercut organized workers' wages. Opponents feared that Hawes-Cooper would open the floodgates for organized labor to legislate away competition from degraded and low-wage workers in other parts of the country, thereby seizing a crucial measure of control of productive processes from owners. This was precisely the case that Iowa's Ramseyer made before Congress. "If you can prohibit [certain goods] from interstate commerce...because of the place where they are made or because by whom made, then you can prohibit articles made by

Chinamen and Japanese.... You could make the same regulations as to goods made by aliens or by nonunion labor."⁵⁵ While not wholly unsympathetic to Hawes-Cooper, Ramsmeyer felt that this would be going much too far. However, Ramseyer accurately plumbed the roots behind organized labor's antipathy to convict labor. Members of the white working class had long been in favor of regulating and limiting Chinese and Japanese and immigrant presence in American industry, and Hawes-Cooper was, in fact, ideologically consistent with these limitations, enacted through Chinese Exclusion, the anti-Japanese "Gentleman's Agreement," and the 1924 Immigration Act. Ramseyer made this connection himself as he argued against the bill on constitutional grounds. His fear, it seems, was that through the precedent set by Hawes-Cooper (with the help of certain manufacturers) organized labor may become effective enough to more fully limit labor market competition from racial and criminal others by limiting interstate commerce in the fruits of their labor. This would have been unlikely, though, because so much of the labor of American industry was of "immigrant stock," and would have more directly challenged how industrialists organized their businesses. Few owners would tolerate such a direct challenge to their hegemony in productive relations.⁵⁶ Capitalists and workers might agree to limit prison labor (as they had once done against slavery), but industrialists would never cede such control to unions.

⁵⁵ Congressional Record, 70th Congress, 1st Session, 1928, 69, Part 8:8639.

⁵⁶ According to Christopher L. Tomlins, the idea that organized workers could control any aspects of the productive process had been deeply opposed by owners and by lawyers since at least the early nineteenth century. "Law and Power in the Employment Relationship," in Christopher L. Tomlins and Andrew J. King, eds., *Labor Law in America: Historical and Critical Essays* (Baltimore: Johns Hopkins University Press, 1992), 84.

As had their predecessors on Congress' floor, opponents of Hawes-Cooper also stressed the humanitarian nature of all prison labor. In 1928 E. R. Cass, the President of the American Prison Association (APA), wrote a letter urging South Carolina Senator Cole Blease to oppose Hawes-Cooper. Writing on behalf of the APA, Cass complained that Hawes-Cooper offered no clear alternatives to how prisoners would be set to work, despite the two year grace period it promised (the grace period was eventually extended to five years). It gave "indication that the deplorable and demoralizing idleness among the inmates in those institutions will increase."⁵⁷ Not only was labor humane for prisoners, he argued, but it was also vital to the managerial needs and the maintenance of "good order" behind bars, which prison officials stressed. When Senator Blease outlined his opposition to Hawes-Cooper, he described a very different view of punishment than had 18th century advocates of the penitentiary, who believed that solitary self-reflection was the foundation of humane punishment. As had other Southerners before him, Blease saw the deadening effects of the self-proclaimed modernist punishment regimes of silence and isolation.⁵⁸ Blease believed labor to be a right of humanity and a privilege, and idleness a far worse punishment than hard labor. Blease claimed he could envision no "greater punishment than to take a well, strong, hearty man and say to him that he must parade a corridor all day, or sit down and think about his people at home, sit down and think about the outside world, just sit in

⁵⁷ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8492.

⁵⁸ On antebellum Southern critiques of the penitentiary, see Edward L. Ayers, *Vengeance and Justice*, Chapters 1, 2.

idleness. I think the convicts would welcome some kind of wholesome, clean work."⁵⁹ Prisoners, he attested, should have some work and some responsibility to give their lives meaning and purpose. But the kind of work needed to give their lives meaning still had to be specified.

Agricultural versus Industrial Labor

Much of Hawes-Cooper and previous legal debates turned around an ideological difference between agricultural and industrial labor. A distinction between the two made the industrial lineaments of Hawes-Cooper clear, and exemplified both the connection between Hawes-Cooper's original free labor ideology, as well as the transformations that free labor ideology had undergone between the Civil War and the early decades of the 20th century. The major continuities were that free workers' labor should be protected from degraded competition as a racial privilege of citizenship. The ruptures were first, that under a more fully industrial economy, there was a growing conception of division between agricultural and industrial labor. Second, the cross-class differences that the original free labor ideology bridged between wage workers and small and large producers (by situating them against slavery and the slave power), had been worn thin by the Gilded Age's labor crises and the invocations of "wage slavery" made by the Knights of Labor and other organized workers.⁶⁰ Workers and owners became ever more distant during this period of increasing industrialization, as

⁵⁹ *Congressional Record*, 70th Congress, 2d Session, 1928—29, 70, Part 1:805.

⁶⁰ William E. Forbath, "The Ambiguities of Free Labor: Labor and the Law in the Gilded Age," *Wisconsin Law Review* 767, (1985). Also, Stanley, *Bondage to Contract*; Peck, *Reinventing Free Labor*.

fewer workers could imagine ownership or mastery ascending the ladder of job mobility. But when industrial workers and owners confronted prisoners at work in their industries, free labor ideology was revived once more. Agricultural producers were unsuccessful in organizing against competition with prison-grown materials, however. Agricultural labor, because of its increasingly racialized nature in an industrializing political economy, became more thoroughly excluded in the 1920s and 1930s versions of free labor ideology.⁶¹ Indeed, capitalist centralization in California agriculture increased the use of a subordinated and racialized workforce, while sharecropping and tenant farming in Southern agriculture continued to exist in racialized and colonial relationship to northern industries.

The division between industrial and agricultural workers demands further analysis. The distinction played into the growing rift between racial forms of labor that would emerge in full force in coming years, whereby agricultural workers were effectively racialized and shunted to the bottom of the political economic ladder, while industrial work became central to notions of citizenship and national belonging. Like the distinction between citizens and criminals and between citizens and immigrants, the difference between industrial and agricultural labor increasingly articulated with conceptions of racial personhood and social hierarchy.⁶²

⁶¹ See Pete Daniel, *The Shadow of Slavery: Peonage in the South, 1901-1969* (Urbana: University of Illinois Press, 1990); Foley, *The White Scourge*; Montejano, *Anglos and Mexicans in the Making of Texas*; Devra Weber, *Dark Sweat, White Gold*. For the difficulty that racialized, and especially women workers faced in labor organizing in this period, consider Vicki Ruiz's discussion of Mexican American women and UCAPWA in *Cannery Women, Cannery Lives*. Also, Carey McWilliams' *Factories in the Fields* remains a crucial historical and historiographical work.

⁶² Devra Weber, *Dark Sweat, White Gold*; David Montejano, *Anglos and Mexicans*; Carey McWilliams, *Factories in the Fields*.

Some of the most vocal opponents of Hawes-Cooper were those Southern legislators who feared that their prisons would be crippled if the cotton they produced were to be disallowed from interstate trade. If they could not set prisoners to work in fields, what could they do to keep them busy, exhausted, and out of trouble? Southern States wanted agricultural products exempted from the Hawes-Cooper bill, so that they would not need to face any reorganization of their prison systems. Many legislators, including Representative Cooper himself, seemed happy to grant this concession, should it help the bill pass. Mississippi legislators, such as Representative Busby and Senator Stephens, went to great lengths to oppose the bill, and did their best to guarantee that agricultural goods – cotton especially – would be exempt from Hawes-Cooper.

Mississippi Representative Lowrey advocated a distinction between raw materials and finished goods for inclusion in Hawes-Cooper, in order to protect Parchman Farm's ability to grow and sell cotton. Labor for prisoners was mandatory, he argued. All could agree on that. "We must have it for economic reasons[,] we must have it for humanitarian reasons, and we must have it for moral reasons. It would be ruinous to the discipline of the prisons, ruinous to the morals of the prisons, and ruinous economically to keep prisoners unemployed. The question is, how can we keep them employed without bringing the things they produce into competition with the products of free labor[?] As has been brought out, that is utterly impossible. It can not be done.

Then the question is, how we may most nearly do justice to free labor and still safely conduct the affairs of our prisons."⁶³

Lowrey, too, furthered a distinction between agricultural and industrial labor. "Free labor wants labor in the factories. It is to their advantage for factories to be abundantly provided with raw materials." He argued that Mississippi's prison cotton should be sent to factories in the Carolinas and in New England, and could "be admitted without hurting labor."⁶⁴ In his statements, "labor" clearly meant "industrial labor."

Senator Hawes certainly understood the significance of Lowrey's suggestion, and let it be known that he was far more interested in protecting industrial labor and manufactures than he was in the broad principles of interstate transit, the delegation of power between states and the federal government, or in protecting farmers from competition with prison labor. This came to light when Mississippi's Stephens asked if agricultural goods would be exempt from Hawes-Cooper. He wanted the word "produced" to be struck from the bill, thus keeping the words "mined" and "manufactured" as kinds of prison labor to be limited by Hawes-Cooper. This change in wording would, he felt, allow agriculturally-based prisons to operate as they had long done. Hawes attested that he had no problem with this whatsoever. Stephens' modification would have been written into the bill, except other opponents of Hawes-Cooper made clear that the distinction between industrial and agricultural labor was entirely arbitrary, and that this would put farmers in competition with prison labor, and

⁶³ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8662.

⁶⁴ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8662.

that this should be seen as equally egregious as competition with "free" industry and labor.⁶⁵

Necessarily, allowing prisoners to produce agricultural goods would increase competition with farmers. Iowa Representative Ramseyer fumed at this possibility, "the mere suggestion" of which should, he felt, "cause every representative from an agricultural section to revolt...."⁶⁶ Representative Browning also made the contradiction clear when he asked Arkansas's Representative Ragon "why the elimination of competition with labor should be any more in one branch than it is in another, and why agricultural products should not be protected from prison labor like everything else?"⁶⁷ Ragon's fiscally conservative answer was forthright: he explained that his cash-poor state needed prisoners to work, and prisoners' upkeep should not cost his state's struggling farmers any more in taxes than was possible.⁶⁸

Yet Ragon's answer did not satisfy New York's Fiorello LaGuardia. LaGuardia opposed on principle protecting industrial labor while leaving competition with agricultural labor unchecked. "[T]here is no difference in convict labor, whether it produces a shirt, a broom, or a turnip. The purpose of this bill is to prevent the products of convict labor entering into the general markets of the country. You can not justify this bill by seeking to eliminate any one branch of convict labor. If you do that the very purpose of the bill is destroyed...."⁶⁹ As a legislator had remarked in a similar 1918

⁶⁵ *Congressional Record*, 70th Congress, 2d Session, 1928—29, 70, Part 1:874.

⁶⁶ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8752.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*, 8755.

debate: "A gentleman has to have a mighty fine pair of metaphysical scissors to show me the difference between competition with a farmer and with a manufacturer."⁷⁰ In coming years, and with the New Deal's so-called "southern compromise," legislators would wield these scissors with impressive dexterity, their distinctions aided by the metaphysics of race and nation.

Citizens, Criminals, and Immigrants

Debates over convict labor hinged on whether prisoners' labor would either degrade and threaten the social standing of free, white male citizens, or if labor should be used to instruct and redeem criminals into the good graces of productive citizenship. The majority of legislators in 1929 weighed in on the side of the free laboring citizens, whose racial and gendered positions came to light, rather than the criminals who might be redeemed through labor.⁷¹ Regardless of their position, legislators on both sides of the debate clearly defined the racial and gendered connotations of the citizens they envisioned.

Representative Cooper of Ohio explained "I fully realize the obligation society has in furthering the rehabilitation and reformation of the inmates of our penal institutions. I also believe that States should have the rights to regulate its (sic) own penal institutions and protect its own industry and business, and free labor from prison

⁷⁰ *Congressional Record*, 65th Congress, 2d Session, 1918, 56, Part 7:6347.

⁷¹ Letters from white citizens to Franklin Roosevelt made clear that many believed scarce jobs to be the prerogative of white skin privilege. In 1935 a Georgia woman complained to the President: "negroes being worked ever where instead of white men it don't look like that is rite." Cited by Robert S. McElvaine, *The Great Depression: America, 1929—1941*, 2d ed. (New York: Times Books, 1993), 184.

competition."⁷² Like many others, Cooper was concerned for the wellbeing of criminals, but was more concerned about the wellbeing of working men and women who risked being thrown out of work due to competition with inmate labor.

Massachusetts Representative Connery explained that he came from a district that produced shoes, textiles, and leather and that his constituents and industries would be very much affected by Hawes-Cooper and by the continuing onslaught of prison-made goods. "[I]n my district ... the free labor and the manufacturers...suffer greatly" from competition with prison-made goods.⁷³ While he, too, was concerned about the plight of prisoners, he was more worried about free labor. Connery explained "the brooding of a man who was in prison because he was a murderer or a burglar or a thief [does] not concern me nearly as much as the brooding of a man from my district with nine children who is put out of work by the man in the prison." After his statement, he was met with applause.⁷⁴

Wisconsin's legislator Schafer agreed that citizens must be privileged over criminals when it came to protecting sources of labor, but remained concerned about idle prisoners. Nevertheless, if there was a choice between protecting "the men who bared their breasts to the enemy in time of war and who are out of work walking the streets to-day, and [protecting]convicted bank robbers, murderers, bootleggers, and

⁷² *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8648.

⁷³ *Ibid*, 8656.

⁷⁴ *Ibid*, 8657.

other criminals who are languishing behind prison walls, I would first protect the free labor."⁷⁵ He, too, was met with applause.

These legislators described their constituent and criminal populations through a series of powerful oppositions. Citizens were those men who had bared their chests in battle for America; men with families, with women and children who needed them. Given racial segregation in the military, these were white men, too. Criminals shrank in opposition to noble and manly citizens: they were murders, burglars, and rapists – people who destroyed families rather than nurtured them; criminals stole from others instead of working for themselves. While their degraded lives were to be lamented, and though they should be set to work for state-use or on road-building projects, their labor should do as little as possible to compete with white male citizen's labor. These were the ways in which legislators represented the citizens and criminals in their charge.

The language of patriarchal authority animated both advocates for Hawes-Cooper and its detractors. Advocates believed that prison labor undercut male citizens' "family wage," and thus the wellbeing of their families at home as well as their implicit status as breadwinners. But so too did detractors of Hawes-Cooper emphasize patriarchal authority, who felt that prisoners needed to work (and be paid a wage, too), to keep their families together and continue to support their wives and children.⁷⁶

Opponents of Hawes-Cooper stressed that prisoners needed to work, so that they could earn a modest wage. Not only would their labor support the prison system and keep taxes low, but unfettered prison labor was foundational to the maintenance of a

⁷⁵ Ibid, 8664.

⁷⁶ Kessler-Harris, *In Pursuit of Equity*; Gordon, *Pitied But Not Entitled*; Glenn, *Unequal Freedom*.

prisoner's family, and his patriarchal authority – one foundation of masculine identity. As Representative Clague of Minnesota reasoned, "If the prisoner who has a family comes to our State prison, 75 percent of his pay is sent to the family, and 25 percent is retained by the prisoner.... The amount paid to families of prisoners ranges from \$25 to \$60 per month, depending on [the] financial condition of the family, and the number of children. This is done for the purposes of keeping the family together, supporting the wife, and educating the children."⁷⁷

And even benefits of prison labor, modest as they were, and as harsh as the labor could be, were structured by racial difference. When white male prisoners were set to work in more socially and economically prestigious industrial tasks in penitentiaries, they could earn modest wages to send to their families. As prison officials made clear, this was intended to bolster the prisoners' threatened positions as family patriarchs. Black and Mexican male prisoners, however, were frequently denied even these opportunities, and were much more likely to work in fields and at unwaged tasks while behind bars (See Chapter 3). Thus racialized prisoners were denied the "manhood" that these wages and family contributions offered; so too were their spouses and children denied the meager funds that their labor may have permitted.

The notion of supplying white male workers with a wage, even in prison, was very similar to the language in use in the 1930s, when male workers sought to guarantee that they would be paid a "family wage" because of their sex, regardless of whether or

⁷⁷ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8660. Note the significant difference in discourse around prisoners' labor from the 1990s and into the twenty-first century. Contemporary victim's rights discourse dictates that prisoners' meager wages go to victims' families before they can be used to support prisoners' families.

not they had a family; while women workers would be paid far lower wages, because they were "supposed" to be only making an income to supplement their husbands'.⁷⁸ California Representative Welch joined patriarchal discourse of male wage workers with the justification of limiting inmate labor. "All prisoners should be kept at work, and so should all men on the outside of prisons, but men in prisons should not be given employment within prison walls the result of which forces the idleness of free men on the outside, many of whom are the heads of families."⁷⁹

And though the comparisons with immigrants were only periodic in the congressional debates around Hawes-Cooper, immigrants remained among the threats facing good order and industrial working class men. Mississippi's Representative Busby, in arguing against Hawes-Cooper, claimed that immigrants posed a far greater threat to American workers than prisoners did, even after the 1924 Immigration Act slowed European immigration to a trickle. "Did you ever stop to think that 10 or 15 years ago there were more than 4,000,000 aliens coming into this country each year, and that under the present immigration law we are admitting each year legally 165,000 aliens, and perhaps that many more are bootlegged into the country? All these labor in competition with our citizen laborers who are already in America."⁸⁰ By situating both prisoners and immigrants against "our citizen laborers," Busby attempted to fix the racial, gendered, and national contours of who "American" citizens were, and by exclusion, who they were not.

⁷⁸ See Kessler-Harris, *Pursuit of Equity*, and Gordon, *Pitied but not Entitled*.

⁷⁹ *Congressional Record*, 70th Congress, 1st Session, 1928, 69, Part 8:8662.

⁸⁰ *Ibid*, 8755.

Indeed, even as rural and poor whites fell from the privileges of whiteness, the racial boundaries of American society were hardening over the course of the 1920s. To no small degree, the Hawes-Cooper Act ensnared prisoners among the formally excluded populations.⁸¹ Even with the expansive liberalism of the 1930s and the New Deal, the declining immigrant populations would be either incorporated and disciplined into the well-behaved norms instituted in the 1920s, or they would be expelled.⁸² Immigrants who still had access to entering the United States, such as Mexican workers whom agricultural capitalists demanded across the southwest, were “repatriated” by the tens of thousands during the Depression, against the wishes of industrial farmers themselves. Thanks also to the colonial relationship between the United States and the Philippines after the Spanish American War, Filipino immigrants had U. S. National status, and were thus exempt from the 1924 limitations. By virtue of this national ambiguity, (and serving the labor needs of California agricultural capitalists) Filipinos were also permitted to enter the United States even after the 1924 Immigration Act. But this “loophole” for these racialized immigrants was quickly plugged, due in no small part to white violence, the protests of the American Federation of Labor, and further Congressional action. Senator Hawes himself sponsored a bill preventing Filipinos from gaining citizenship in 1932. In 1934, Congress passed the Tydings-McDuffie Act, granting the Philippines formal independence while shutting off Filipino immigration,

⁸¹ Racialized populations were denied substantive citizenship, and speakers like Busby tried to exclude them from the ranks of “Americans,” which, for him, presumed an exclusively white racial identity. As Evelyn Nakano Glenn makes clear, despite denial of social, civic, and political citizenship, citizenship nonetheless provided avenues for social movements for civil rights, and beginning in the 1970s, too, prisoners’ rights.

⁸² Gary Gerstle, *American Crucible: Race and Nation in the Twentieth Century* (Princeton: Princeton University Press, 2001), Chapters 3-4.

and encouraging Filipino deportation whenever it was feasible.⁸³ But not just “foreign” populations were to be contained. California police officers (particularly from Los Angeles) set up illegal blockades to prevent poor Southeastern migrant “hoards” from entering California. By 1936, members of the Los Angeles Chamber of Commerce advocated that poor migrants and “Box Car Tourists” be sent to hard labor at Prison Camps upon arrival in the state.⁸⁴

When further legislation arose to more stridently enforce Hawes-Cooper, there was little if any Congressional debate. The 1935 Ashurst-Sumners Act and the 1940 Sumners-Ashurst Act passed with little fanfare to “put teeth” into the 1929 legislation, as the idea of protecting the white male working class was broadly established. Further, prisons had not radically deteriorated nor had they descended into chaos, as opponents had predicted, despite the growing prison populations during the Depression. While there was increasing sympathy for prisoners in the 1930s, sympathy for those who had broken no law remained stronger still.

World War II Exemptions to Prison Labor Laws, and the Bracero Program

⁸³ See David G. Gutiérrez, *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity* (Berkeley: University of California Press, 1995), George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900-1945* (New York: Oxford University Press, 1993), and Edward J. Escobar, *Race, Class, Policing, and the Making of a Political Identity: Mexican Americans and the Los Angeles Police Department, 1900—1945* (Berkeley: University of California Press, 1999), Dorothy B. Fujita-Rony, *American Workers, Colonial Power: Philippine Seattle and the Transpacific West, 1919-1941* (Berkeley: University of California Press, 2003), Yen Le Espiritu, *Filipino American Lives* (Philadelphia: Temple University Press, 1995). Also, Barbara Jeanne Yaley, “Habits of Industry,” esp. 226.

⁸⁴ “STAY AWAY FROM CALIFORNIA WARNING TO TRANSIENT HORDES,” *Los Angeles Herald-Express*, August 24, 1935; “URGE PRISON CAMP HARD LABOR FOR ‘BOX CAR TOURISTS,’” *Los Angeles Herald-Express*, December 11, 1935. Cited online at <<<http://newdeal.feri.org/tolan/tol09.htm>>> Accessed Tue Jun 22, 2004.

I have argued thus far that debates and practices generating labor law, and the conditions which they produced, emerged from a complex matrix involving political movements, racial identities, labor markets, and different populations' relationship to State and Federal government. Prison labor laws showed some of the complex interrelationships and dynamics among these and other forces, guided primarily by the racially-based free labor ideology that emerged powerfully in the antebellum Northeast. This racial and ideological formation sought to protect the livelihoods of citizen workers in hard times, against competition from degraded labor sources. Much like the First World War's boom years, the 1940s saw incredible growth in industrial and agricultural production; labor markets were tight, production was high, and wages were good. Thanks to the wartime emergency, and the very tight labor markets, Federal law loosened the racially and nationally based limitations on labor for which white male industrial workers had fought. Political necessity and ideological strictures against protest also forced organized labor to the right, and union leadership increasingly disciplined and repressed rank and file activism in order to protect the positions they had gained in the New Deal.⁸⁵ Concurrently, the Chinese Exclusion Act, passed in 1882, was finally undone as Congress sought more amicable relations with America's new allies in the Pacific theater.⁸⁶ Wartime conditions brought prisoners more fully into

⁸⁵ See especially Nelson Lichtenstein, *Labor's War at Home: The CIO in World War II* (New York: Cambridge University Press, 1982).

⁸⁶ Yung, *Unbound Feet: A Social History of Chinese Women in San Francisco* (Berkeley: University of California Press, 1995), Sucheng Chan, *Asian Americans: An Interpretive History* (New York: Twayne Publishers, 1991), Lisa Lowe, "Epistemological Shifts: National Ontology and the New Asian Immigrant," in Kandice Chuh and Karen Shimakawa, eds. *Orientalisms* (Durham: Duke University Press, 2001), 267-276. Yet many organized workers opposed the foreign policy-based decision to dismantle Chinese Exclusion. The California State Federation of Labor argued against the end of the Chinese

national economic production in industrial and agricultural labor, yet as they participated in the wartime economy, they did so under the regulatory reigns that Hawes-Cooper had anticipated a decade earlier.

Labor shortages during the First World War had prompted similar emergency measures that went directly against the legislation that members of the organized, often nativist, working class had tried to pass. This was the reason that a cotton mill was opened at the Federal Penitentiary in Atlanta in 1918, and why Congress appointed a committee to investigate options for importing Chinese farmers to work in American agriculture during WWI, much as the Bracero Program would do in the 1940s.⁸⁷ Carey McWilliams documented the expanded use of prisoners and reformatory inmates in California agriculture during World War I, as well as the machinations through which agricultural employers refreshed their labor supplies through new and protected waves of immigration.⁸⁸

In July 1942, President Roosevelt's Executive Order 9196 allowed for the loosening of convict labor laws. For the duration of the wartime emergency, the Order would "permit officers and agencies of the Federal Government charged with the

Exclusion Act in 1943, saying that it would not be prudent to pursue such legislation in the present wartime hysteria. They reasoned "that matters of this kind should be disposed of under more normal conditions," and that these efforts to end exclusion should be "opposed for the time being, in the belief that it in the present war hysteria it would be impossible to deliberate coolly and calmly upon such far-reaching proposals." From the *Report of Officers to Affiliates of the California State Federation of Labor*, 1943, p. 54. Housed at the Labor Archives and Research Center, San Francisco State University.

⁸⁷ See *Congressional Record*, 65th Congress, 2d Session, 1917, 56, Part 1:62. The Dec 7, 1917 Record contains the heading "IMPORTATION OF CHINESE FARMERS." It read, "Resolved, That the Committee on Agriculture and Forestry is hereby directed to make careful investigation of into the advisability of recommending legislation that will permit the importation of Chinese farmers into the United States, under proper restrictions and regulations, during the continuance of the war."

⁸⁸ McWilliams, *Factories in the Field*.

purchase and procurement of articles necessary in the conduct of the war to procure directly or indirectly, through any contractor or sub-contractor..., articles of any kind produced in any Federal, state, or territorial prison, provided such articles are not produced pursuant to any contract or other arrangement under which prison labor is hired out to, or employed or used by, any private person, firm, or corporation.”⁸⁹ As we shall see below, despite injunctions against using prisoners in private firms, they were indeed set to work for private profit. But they did so only in agriculture labor, which had become fully racialized with the Second World War. Industrial labor remained the purview of citizen workers, while criminals and immigrants – both of whom were of dubious citizenship status – would perform agricultural labor.

Thanks to the wartime emergency and their willing sacrifice for national needs, the Executive Council of the American Federation of Labor felt that it could not criticize the new policy. Regrettably, they wrote, the undermining of these prison labor laws “must be faced in a realistic and patriotic way,” and labor must hold their tongues that the war progress more smoothly.⁹⁰

In order to justify prisoners’ labor during the World War II, and in order to modestly accommodate the stipulations that organized labor had achieved in Hawes-Cooper, Ashurst-Sumners and Sumners-Ashurst, different states found ways to legally permit prisoners to work. A great many prisoners worked for state-use in various manufacturing enterprises during the War, making Navy food trays and submarine nets

⁸⁹ Recorded in the *Report of Proceedings of the Sixty-Second Annual Convention of the American Federation of Labor* (Washington, D. C.: Ransdell, Inc., 1942), 200.

⁹⁰ *Report of Proceedings of the Sixty-Second Annual Convention of the American Federation of Labor* (Washington D. C.: Ransdell, Inc., 1942), 200.

to string across the San Francisco Bay, as they did in at San Quentin. So too did prisoners at Folsom salvage wire and metal for war use. All of these industries were directly for war use and for war industries. Texas prisoners produced mattresses for the military, while other prisons around the country increased production of an array of goods that the wartime state needed. Many of these prisoners gained some modest wage, and many also claimed their own participation and belonging in the wartime nation, thanks to the contributions they made.

While most prisoners manufactured goods for state-use, others found themselves laboring at the behest of private enterprise. That working for private corporations was beyond the scope of Executive Order 9196, and, in California, went against the State Constitution, required some legal wrangling. The measures that California's agricultural industrialists and prison officials took, however, offer insight into the State's political economy, and the ways the racial dynamics of citizenship, immigrant, and criminal status condensed around forms of labor.

California's Prison System offers an interesting example of the indeterminacy of free and unfree agricultural labor. As there had been in the First World War, there was a shortage of agricultural workers during WWII. Or, to put it more accurately, growers were unable or unwilling to pay what the market would bear for workers to pick crops.⁹¹ As a result, growers examined various coercive labor relations. When they examined possibilities for tractable, low wage workers, they experimented with the military –

⁹¹ On the political economic tendency for capitalists to engage in coercive labor relations in periods of labor shortages (and thus when workers could demand high wages), or in the face of capital shortages, see Stanley B. Greenberg, *Race and State in Capitalist Development*, Alex Lichtenstein, *Twice the Work of Free Labor*, Gunther Peck, *Reinventing Free Labor*.

which temporarily furnished growers with soldiers to gather crops; the prison system – which provided prisoners, though not without repeated scandals; and finally, they looked beyond national borders.⁹² Ultimately, California’s agricultural capitalists found their most secure, and (they hoped) most tractable labor supply, in Mexican migrant workers. The United States Employment Service proved willing and able to help growers find labor for their fields, and thus California agriculture during the war was harvested by soldiers who had no choice in the matter, by prisoners who were generally eager to earn (relatively decent) wages away from the prison, and by Mexican immigrants under the nascent Bracero Program. As Gunther Peck has written, with the Bracero program, the Federal government became agricultural capital’s primary labor contractor. Such was the case for prisoners, too.

California harvest camp prisoners, much like Braceros, navigated an ambiguous legal status between freedom and unfreedom. Because prison labor was not supposed to impinge on the rights on non-imprisoned workers, prisoners were to receive wages “at the going rate” that regular workers would, though neither prison officials, growers, or the United States Employment Service addressed the many repressive measures

⁹² On soldiers as emergency crop workers, see the November 3 1943 *Sacramento Bee*, p. 12. US soldiers were used to harvest potato crops in a "potato harvest emergency," a freeze during what the *Bee* called "one of the worst farm labor shortages in the history of the basin." 400 soldiers worked for 2 weeks, living in the gymnasium of the local high school and the Legion Hall. "Soldiers who assisted in the harvest drew only a soldiers' pay, while current wages paid by the growers has been paid to the federal government. ... Growers highly praised their efforts." While the presence of soldiers in agricultural fields may seem to undercut the idea that agricultural labor was racialized and socially degraded, I would disagree on the basis of tenuous notions of "freedom." Virtually any soldier will tell you that they are definitely not "free" to do as they please, though they were certainly not racialized in this period either. In addition, 605 Mexican nationals had been working the potato harvest, 200 of whom would pick cotton in Southern California after this particular job was finished.

designed to suppress just what the “going rate” of labor might be.⁹³ As white male industrial workers had long done, they opposed the bracero program’s importation of racialized, foreign workers. The California State Federation of Labor’s *Weekly News Letter* dated September 1, 1942, sponsored the idea of a "Food for Victory" program. Such a program "would mobilize all the available unemployed and part time workers" to pick California’s crops, and organize "adequate transportation and housing to accommodate them." Just as important as the threat of food rotting on the vine in the war effort was the specter of imported Mexican workers. The Federation contended that such "extreme measures" as importing Mexican workers was unnecessary, provided that all citizens would register with the US Employment Service and would work on their days off. "With a successful 'Food for Victory' campaign as planned, the taxpayers of the State will be saved from the possible need of having to support thousands of Mexican workers who may have to be cared for after the crops have been harvested and before they are repatriated to their homeland. A number can always be expected to escape repatriation, thereby flooding the market with an undue supply of unskilled labor which can be used to the disadvantage of labor by undermining the whole wage structure in the State."⁹⁴ With such a view in mind, it was possible that the California State Federation of Labor may have favored using prisoners in California’s fields instead of Mexican immigrants. However, there was little mention in the *Weekly Newsletters* of the prospects of California prisoners in the fields.

⁹³ Montejano, *Anglos and Mexicans in the Making of Texas*; Carey McWilliams, *Factories in the Field*; Calavita, *Inside the State*, Weber, *Dark Sweat, White Gold*.

⁹⁴ *Report of Officers to Affiliates of the California State Federation of Labor*, 1-3. Labor Archives and Research Center, San Francisco State University.

But before growers could get prisoners to work in their orchards, they needed to overcome the legal obstacle of the constitutional prohibitions on inmate labor for private profit. Thus, in September 1942, California legislators and agricultural growers built upon the preexisting practice of inmate parole. The California Board of Prison Terms and Paroles offered to grant “special and conditional paroles” to prisoners who volunteered to work in the new, privately-owned harvest camps.⁹⁵ As parolees, these prisoners weren’t quite free, but neither were they fully imprisoned. Like Braceros, harvest camp workers were supposed to earn market-based wages from private individuals. In addition, and quite importantly for understanding these prisoners’ legal status, they signed contracts with employers (mediated by the United States Employment Service).

The legal convolutions did not stop there. According to the terms of harvest camp assignment, these prisoners were to be supervised by farm foremen and were to be considered “free workers” during the daylight hours. But at night, harvest camp prisoners were to be watched by prison guards (paid by farmers rather than the State), and legally considered as “prisoners.” Prisoners’ legal status thus depended on the temporality of labor needs, and was derived more from growers’ desire for labor than from penological imperatives. In addition, according to Minute Books kept by prison officials, harvest camp prisoners were to have “restored certain necessary civil

⁹⁵ Parole was another facet of progressive penology. It allowed well behaved prisoners to be released from prison, though still serving time on their sentence. Parolees needed to be gainfully employed, were not allowed to travel, possess a weapon, or associate with other ex-prisoners. Nor could they marry without the express permission of the Board of Prison Terms and Paroles. As Amy Dru Stanley makes clear in *From Bondage to Contract*, marriage was another contract relation indicative of degrees of freedom and unfreedom in American political economy.

rights...to permit them to be legally entitled to the benefits of the California Workman's Compensation Act." That they were to receive workers' compensation if injured at work again located harvest camp prisoners in an indeterminate status between free and unfree labor.⁹⁶ According to a letter sent from Samuel C. May, Director of the U. C. Berkeley Bureau of Public Administration, to the Governor's office, the "special and conditional" parole status of harvest camp prisoners made it ambiguous as to whether or not they could legally be considered as prison labor.⁹⁷ And, at the end of their contracts, they were to return to either Folsom or San Quentin as full prisoners, with no recourse to appeal and continue their parole.

The "special and conditional" status determined by wartime emergency lasted until February 10, 1943, though prisoners' categorical ambiguity persisted. When Governor Warren signed Assembly Bill 572 into law, Section 2701 was amended so that authorities could use prisoners "in the rendering of such services and in the production and manufacture of such ... materials ... as are needed by the State...and the Federal Government...." Permission was to last until April 1, 1945, or until the end of the war. Crucially, the Board could "enter into contracts" with employers to set prisoners to work, and this was the legal permission to enact the convict lease in California.⁹⁸ Section 2715 dealt explicitly with the agricultural production: "The Board may authorize...the temporary removal of prisoners under custody of prison officials to

⁹⁶ San Quentin, Folsom, and Chino Minutes Summary Books, 1943—1945, March 20, 1943 entry. CSA F3717:1039.

⁹⁷ Samuel C. May correspondence to W. T. Sweigert, CSA, Earl Warren Papers -- Administrative Files -- Corrections -- Governor's Prison Committee -- Correspondence, 1943-44. Folder 23. F3640:993.

⁹⁸ *California Statutes* (1943), Ch 46, Section 1, amending Penal Code Section 2701, pp 262-263.

harvest crops and fight fires...until the termination of the present emergency.” Section 6 of Chapter 46 was the “Urgency Measure” of the new law: “This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety.... The United States of America is now at war with certain foreign powers and its manpower is severely taxed to meet the personnel requirements of the Army and Navy and the National defense plants[.] [T]he Federal Government has called upon State and Federal Prisons to turn their inmate manpower and equipment [to work] previously done by unskilled workmen, such as the harvesting and planting of crops....” In order not to raise the ire of the labor aristocracy, the law explicitly stated that prisoners were not to perform any work that might be considered “skilled.” According to the 1940-42 *Biennial Report of the State Board of Prison Directors*, “In every instance the administration has stressed that there is no intent to compete with free labor, but for the inmates to replace those who had enlisted in the armed forces or employed in the nation's vital war industries.”⁹⁹ As forms of racialized, and socially degraded agricultural labor, harvest work or protecting timber (another agricultural commodity), remained outside state protections of organized, white workers, and thus during this emergency, these were forms of labor to which administrators could assign their wards. Many California prisoners also worked in wartime industries, such as making submarine nets, food trays, landing boats, and doing laundry for the Navy, but prisoners were never permitted to work in for-profit heavy industries. These forms of industrial labor, long associated with white privilege even

⁹⁹ *Biennial Report of the State Board of Prison Directors, 1940-42*, (No publication information), 49. CASL Government Publications Room.

after Executive Order 8802 barred discrimination in defense industries, remained protected from competition with inmate labor.¹⁰⁰

Yet the language of citizenship and patriotism remained unstable, and was thus available to prisoners, too, even from their degraded position. As they harvested crops and canned vegetables, as they wove submarine nets, salvaged scrap metal, or donated their very blood to the war effort, prison inmates, too interposed the language of labor and citizenship to claim national belonging. They might be prisoners, but they were still Americans.¹⁰¹

Conclusion

Protest movements against prisoners and immigrants were important components of the processes of white male industrial working class formation. As organized workers made claims upon their governments to protect their livelihoods, they both exercised as well as produced their own racial identities in opposition to other categories of legal personhood. In so doing, they situated themselves against racially other social and legal categories of people, namely, the immigrants/illegal aliens and

¹⁰⁰ See Peck, *Reinventing Free Labor*, 8; David Roediger, *The Wages of Whiteness*. Among works on racial segregation in WWII wartime industries, see Eileen Boris, "'You Wouldn't Want One of 'Em Dancing With Your Wife': Racialized Bodies on the Job in World War II" *American Quarterly*, Vol. 50, No 1, (March 1998): 77—108; Marilyn S. Johnson, *The Second Gold Rush: Oakland and the East Bay in World War II* (Berkeley: University of California Press, 1993). Also, Luis Alvarez, "The Power of the Zoot" (Ph.D. dissertation, University of Texas at Austin, 2002); Montejano, *Anglos and Mexicans*,

¹⁰¹ A full study of prisoners' nationalism during wartime remains beyond the scope of the current chapter. For archival examples of prisoners' nationalist appeals, see H. Buderus von Carlhausen, "America—Add Stars to Our Stripes," unpublished manuscript, 1942. CSA, California History Room. (Von Carlhausen, born in Europe and a convicted pedophile – and therefore very low on the hierarchy among prisoners – had good reason for emphasizing his patriotism and belonging.) See also the many wartime editions of the San Quentin and Folsom inmate publications, which emphasized prisoners' patriotic war effort, and the Conclusion, for more on prisoners' labor during the Second World War.

prisoners whom they saw as servile and racially degraded. Both of these identities, in different times and places, were articulated with the maligning and imposition of racialization, degraded status, and the inability to participate in democratic government. This was, of course, a multifaceted process, emerging from many locations and finding expression in others, but nevertheless continued the antebellum racial distinction between white citizens and black slaves, now expressed in an established political economy dominated by industrial rather than agricultural production, by expanding prison systems and solidifying national borders. Federal prison labor laws were one such site of social differentiation, and were significant in that numerous elements central to modern life were revealed in their passage and debate. Patriarchal authority, respectability, the inviolability of property even in the midst of depression, and racial marking each emerged and were expressed on the Congressional floor. Emanating from Congress, as well as moving from the prison fields and heavy industries into rarified political discourse, the work that prisoners performed and the laws that guided their labor shaped and reflected the fundamental contradictions of race, gender, nation and political economy.

Criminal, migrant, and citizen status reflected and produced discourses that inflected and reproduced the meanings of race and nation. The terms were fought over and were themselves the result of social and ideological conflict. Nevertheless, a constant yet shifting theme from the 1830s through the 1945 entailed the relationship between those who could claim the racial and economic prerogatives of citizenship to motivate state representatives to act in their perceived interests. Yet citizenship proved

a flexible category for those who took different positions regarding the legality and appropriate place of prison labor. Those who encouraged expanded prison labor used the language of teaching productive, patriarchal citizenship to criminals. While these prisoners may have fallen, advocates reasoned, productive labor and sound correction would teach them the habits of industry and the responsibilities of productive citizenship. For those who wanted to expand prison labor opportunities, redeemable prisoners were effectively coded as white. Anti-convict labor activists, either industrial manufacturers or wage workers, wanted to limit convict labor in order to protect white male industrial citizenship. Opponents of prison labor remained silent about prisoners' racially coded identities (while emphasizing their fall from good legal standing), but wanted to limit prison labor to protect citizens, who were also coded as white.

In each case, congressmen and white labor unionists invoked similarly raced and gendered versions of a white racial and masculine citizenship, relationally opposed to non-white criminals. They tried to set the boundaries and privileges of citizenship for those white males who earned (or should earn, they believed) high wages to provide for and control their own families. Under conditions of labor shortage and high demand, however, criminals across the country and Mexican Braceros could enter – in many cases, were forced to enter – an expanded labor market. Prisoners proved especially adept at manipulating their labor's contribution as well as their national identity in an effort in the national war economy. While they might be criminals, they would make sure all knew that they remained “Americans.”

Chapter 3

Race, Gender, and Discipline in Texas and California Prison Labor Systems

Racial and gendered definitions of labor and citizenship were central to discussions of crime, punishment, and rehabilitation in the 1930s. This chapter explores the complex connections between identity, discipline and citizenship that took shape around inmate labor in Texas and California. First, it describes the conditions of labor in California and Texas prisons, and assesses the material differences as well as the commonalities in labor conditions in the industrially-based California Prison system, and the agriculturally-based system in Texas. It also describes the how the redemptive ideologies surrounding prison labor meshed with and diverged from actual labor conditions. Finally, it stresses the ways that inmates shaped the conditions of their forced labor. Throughout, notions of manhood figured centrally in officials' justification of forced labor, but also in prisoners' opposition to that labor. Though racial hierarchies worked at cross purposes to putatively color-blind redemptive ideologies, in practice, racial hierarchy and redemption were never distinguishable from each other.

Texas and California prisons' labor systems shared the redemptive ideology which claimed that labor was a cure for deviance. Both replicated Progressive penologists' belief in rehabilitation through what we might identify as a coercive meritocracy of prison labor. Both systems replicated the gendered ideals of labor

hierarchy commonplace in the Depression-era United States. And furthermore, both systems' purportedly race-neutral notions of rehabilitation were thoroughly structured by racism, and the elevation of select whites and the denigration of racial others through labor assignment.

Waged work of any sort was a much sought after prize during the Depression years, and few citizens were willing to tolerate the idea that criminals would have labor opportunities and the dignity that such labor entailed while they had to beg for work themselves. At the same time, prison populations swelled with the ranks of the down and out, and "good" job assignments for prisoners were similarly scarce among the overpopulated inmate populations. Though prison officials spoke about the development of progressive policies of treating each individual as a separate and unique case, they also adopted longstanding racial biases in their treatment of prisoners that belied the idea of liberal treatment of inmates.

Clearly, after the long protests by organized workers and manufacturers, as well as the humanitarian concerns about the treatment of prison inmates, labor was declining in significance as a penal strategy of either social redemption or cost-cutting.¹ However, labor within prison remained necessary for the institutions to function, it still produced and reproduced social hierarchies, and continued to have a disciplinary effect within the context of prison culture. Assignment to labor reflected social hierarchies over assignment to all too few privileged jobs, and the social prestige which labor created in a society where identity as a valuable person was dictated, to a large degree,

¹ Rebecca McLennan, "Punishment's 'Square Deal': Prisoners and Their Keepers in 1920s New York," *Journal of Urban History*, Vol. 29 No. 5 (July 2003): 597—619.

by what one did for a living. Prison officials knew this, and continued to use the explicit hierarchy of job assignment to try and instill docility in their wards. Despite, or perhaps because of the lack of good work opportunities for prisoners due to the overpopulation of Depression-era prisons and newly restrictive prison labor laws like Hawes-Cooper and Ashurst-Sumners (see Chapter 2), labor remained an important component of prisoners' lives. Labor assignment, in prison as much as on the outside, was an indication of location within official hierarchies and was symbolic of officially sponsored prestige or denigration.

Not only was this a symbolic prestige, but there were material consequences for finding placement in better jobs. Prisoners with better jobs typically enjoyed better food, more pleasurable working conditions and social interaction with larger numbers of people, and frequently earned more good time toward release than did prisoners in less desirable positions. According to official understandings of prison labor and assignments, labor opportunities mirrored the ladder of upward mobility that Abraham Lincoln had once proclaimed: "The man who labored for another last year, this year labors for himself, and next year...will hire others to labor for him."² In the same manner, official ideology dictated that Depression-era prisoners were supposed to ascend a ladder of upward mobility and responsibility, and move from highly surveilled

² Roy F. Basler et al, eds., *The Collected Works of Abraham Lincoln* (New Brunswick: Rutgers University Press, 1953), 2:364. Quoted in Gunther Peck, *Reinventing Free Labor: Padrones and Immigrant Workers in the North American West, 1880—1930* (New York: Cambridge University Press, 2000), 9; and in Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York: Oxford University Press, 1995), 30.

and degraded positions at unwaged labor to self-controlling positions, working for wages in California, or for good time toward release in Texas.

Officials and prisoners alike frequently understood these oppositions in gendered and class terms. To control one's labor was to control one's self. In the Depression years, when masculinity confronted yet another emasculating crisis from inability to live up to patriarchal breadwinner ideals, to earn a wage was to be a man again, to have some income and control of what one and one's family consumed. If not in greater amount than in other periods, the inability to earn money was acutely tied to the feelings of masculine inadequacy in the Depression years.³

But this was not the only way of conceiving of the gender of prison labor assignment, or of the ideals of masculinity. While officials maintained specific narratives of redemptive manhood and upward mobility through labor, prisoners developed oppositional notions of masculinity that largely inverted the official narrative, and championed "resistant behavior" of stealing, gambling, and conniving within the prison in a subaltern economy, a topic I address in greater detail in Chapter 4 below. In each case, the desire to earn money and to control and define oneself in a masculine way was foundational to the meanings and contests over Depression-era prison labor, and was structured by racial hierarchies in both Texas and California (though in distinct ways). Prisoners who earned money might send some of that money to their families, and thus fulfill the vision of a patriarch supporting his household – a condition that incarceration eliminated, thus symbolically emasculating the prisoners

³ One is forced to wonder when masculinity has even *not* been in crisis, or, if crisis is definitional to masculinity itself (though given to historical variation of degree and kind).

and putting their families under hardship. Prisoners and officials alike believed in these gendered roles and the narrative of the self-directed male breadwinner, though their ideas on how to achieve those ends were drastically different, as prisoners' diverse and occasionally painful practices to control themselves and the fruits and benefits of their labor made clear. The chapter both describes labor processes, as well as analyzes how everyday practices of labor differed from prison officials' stated ideals.

The Laboring Culture of California's Prisons

Since the development of the prison as a mode of punishment in the 1780s, labor has been a foundation of disciplinary retraining. In a capitalist society, those who have either acquired capital outside of wage labor relationships or on the fringes of the official market have found themselves subject to punishment, and subsequent retraining in the so-called "habits of industry." Despite their vastly different agricultural and urban bases, and their penological programs, Texas and California differed little in the ideology of labor-as-redemption (though labor was augmented by other programs, discussed in Chapters 5 and 6). Despite the new limitations on prison labor imposed by the 1929 Hawes-Cooper Act, prisoners continued to work at the state's behest and materially contribute to the funding of their incarceration. At the same time, on a rhetorical level, their labor would offer them "training" as good workers, so that they would not need to break the law again.

A 1930 "Report on Prison Labor," authored by the California Taxpayer Association, succinctly voiced the ideology guiding prison labor since the Civil War:

“Constructive employment is probably the most valuable means of leading a man away from criminal tendencies. To teach a man [the] habits of industry and to impress upon him the dignity of labor will do much to restore him to useful citizenship.”⁴ The Report’s authors also stressed that labor was essential to discipline in the prison, suggesting that nine prison riots across the country in 1929 were the result of idleness among prisoners.⁵ The authors further described the pedagogical and reformatory aspects of prison labor: “To the hardened criminal, the thought of work is repulsive. No doubt, this attitude has much to do with the fact that he has chosen a life of crime.”⁶ Young prisoners, they reasoned, could be reformed by learning the good habits of hard work, while hardened criminals would be punished by it. “The dignity of labor should be emphasized in the minds of prisoner employees and they should be allowed to acquire the habits of industry. Treadmill labor, however, cannot produce these results and would do more damage than good as a cure of criminal tendencies.”⁷

Gender played a key role in the ideology of productive prison labor, and a constant theme among prison labor advocates of these years was that prison labor produced *men*, and that this product was more important than the license plates, furniture, and the jute bags that prisoners made. The ideologies of gender and the

⁴ California Taxpayers' Association, Inc., “Report on Prison Labor in California,” Los Angeles, CA, 1930, p. 18. Archived at the Bancroft Library, F862.8.C228.

⁵ Rebecca McLennan suggests that New York prisons that did not have riots were those, like Sing Sing, that had instituted what she calls “managerial penology,” using mass media as a way to placate prisoners. “Punishment’s ‘Square Deal,’” esp. 612.

⁶ California Taxpayers' Association, Inc., “Report on Prison Labor in California,” 19.

⁷ *Ibid*, 28.

production of proper masculinity were central to the discourse around prison labor in California.

Prison officials imagined that labor position would be a mark of behavior and an inducement toward self-regulating discipline. As noted above, by the 1930s prison labor no longer played the significant role in the national economy that it had during the convict lease period in the Deep South. Instead, labor comprised part of an internal disciplinary economy, based in behavioral control and racial differentiation within the prison. Masculinity proved to be a central component of this hierarchy.

Around the turn of the twentieth century, Anglo-American penologists developed a system of classification and penal discipline that has since come to be known as “Progressive penology.”⁸ This humanistic vision of corrective punishment was characterized by retraining, self-discipline, and reward rather than by compulsion or harsh punishment, though the actual experience of incarceration usually diverged greatly from these disciplinary ideals. California adopted two principal elements of progressive penology in the early 20th century: The indeterminate sentence, whereby prisoners’ sentences would be set according to their behavior, and Prison Road Camps, seen as the apex of a progressive journey of reform. In both cases, racial biases structured inmates’ actual experience with incarceration. Across the nation, black

⁸ See especially David Garland, *Punishment and Welfare: A History of Penal Strategies* (Hants, England: Gower Publishing Company Ltd., 1985), David J. Rothman, *Conscience and Convenience: The Asylum and its Alternatives in Progressive America*, rev. ed. (Hawthorne, NY: Walter de Gruyter, Inc, 2002 [1980]).

prisoners received longer sentences than whites under similar conditions of “indeterminate sentencing” – just as they labored in the worst positions.⁹

Begun in 1923, road camps were intended to be both spatial locations and labor assignments toward which prisoners could strive, part of a graded system of labor and classification based around a narrative of literal progress in behavioral and economic responsibility. The gradations of punishment and reward were structured through privileged or punitive labor assignments, requiring greater or lesser degrees of supervision, responsibility, violence and suffering. San Quentin’s jute mill and Folsom’s rock quarry were the most dangerous and punitive labor assignments, and new inmates were sent here for their first assignments. This might be understood as a “seasoning period” akin to the one African slaves experienced when first brought to the New World, while road camps were the goal of the very best of the California Prison population, the most reformed and the closest to freedom. The progressive narrative of reform and correction – beginning in the harsh San Quentin jute mill and moving “up” to road camps, wholly overseen by the benevolent administration of guards and officials, belied the actual functioning of power and authority behind bars, wherein race proved to be a crucial factor.

Even for relatively privileged white inmates, it was quite some time before most would be permitted to work for the road camps. For the unlucky majority, San Quentin and Folsom remained their homes. Institutional accounting procedures categorized labor into the bureaucratic categories of “productive” and “unproductive” work.

⁹ US Department of Commerce / Bureau of the Census, *Prisoners in Federal and State Prison and Reformatories, 1935* (Washington: United States Government Printing Office, c1937), 74.

Though on the outside there was a gendered value judgment associated with productive and reproductive labor, behind bars, the valuation worked differently, and was more centered on the ability to control one's own labor, and the degree to which prisoners might parlay their labor into favors from other inmates. Though the jute mill was classified as "productive" labor – because it earned money for the prison system – jute mill workers, unlike those who might pilfer food from the kitchen or shoes from the shoe shop, gained little from their labor to bargain with in the prison's subaltern economy. One inmate explained that the value of a job was in its ability to procure extra benefits, rather than through the quality of labor itself.¹⁰ And because work at the jute mill was boring, dangerous, and socially degraded, it held little of the masculine prestige of other kinds of productive labor. Indeed, assignment to the jute served as a kind of punitive demotion in the prison hierarchy. Warden Clinton Duffy explained, "If we get a convict ring that is selling anything, we break up the ring by sending them to Folsom or moving them around to other jobs where there are not so many privileges as they have enjoyed, or send them to the jute mill or quarry or other shops."¹¹ Obedience was rewarded, and recalcitrance punished through assignment to labor, or by relocation to a different, harsher prison.¹² This mapped in troubling ways onto black prisoners, who were frequently assumed to be difficult inmates, or, through racist treatment, were

¹⁰ Cited in Donald Clemmer, *The Prison Community* (New York: Holt, Rinehart and Winston, 1958 [1940]), 227.

¹¹ Clinton T. Duffy testimony, Volume X: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, 1886. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:965.

¹² This was a common tactic for early 20th century prison officials. See Rebecca McLennan, "Citizens and Criminals: The Rise of the American Carceral State, 1890—1940" (Ph.D. Dissertation, Columbia University, 1999).

made into difficult inmates (and often were, but no more so than their white, Mexican, or Asian peers).

An article about the prison furniture shop in the prisoner-authored *San Quentin Bulletin* made the connection between the labor of “making men” explicit. More than building fine furniture, the furniture shop’s Superintendent Suttle was “a builder of men.” “Men and boys under Superintendent Suttle's jurisdiction are encouraged, trained and made into master craftsmen," and these were men, it was presumed, who would not want for labor opportunities on their release. When admirers examined the furniture produced under the tutelage of Superintendent Suttle, they would see “not merely a display of things but ... a reflection of manhood rehabilitated behind prison walls to take again an honorable place in society.”¹³ The manhood produced in the furniture shop, as well as the ideology linking manliness with craft production, was rooted in manly Victorian notions of self-control, prestige, and self-directed labor, but within wage labor relationships. That the artisanal production of furniture was long defunct in the age of mass production mattered little to prison labor advocates, whose nostalgia for manly competency was ill-suited for this era of industrial capitalist crisis.¹⁴

Nevertheless, as a relatively obedient white male prisoner, inmate author Robert Joyce Tasker benefited from this system. More than just a respite from boredom while serving time, Tasker sublimated sexual pleasure in his work at the furniture shop. After

¹³ Edwin Owen, "Craftsmanship in Desks and Men," *The Bulletin*, October 1932, 14.

¹⁴ See Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917* (University of Chicago Press, 1995).

describing his sexual longing in absence of women, he turned toward his machine for relief. “I could not deny that part of me was crying out for tenderness,” he wrote.

Amazingly, affection began to surge up in me for my machine.... It began to respond to me like a young hound learning to hunt. I played a symphony upon it, my ear attuned to the least vagrant vibration; then an indefinitely small turn of a pressure-bar screw, a jamming tight of bed-bolt—and the hum again.... The purring hum of the machine I was beginning to love. At work I was content. I had a mistress....¹⁵

When lack of work, or degraded work proved to be alienating, Tasker understood the meaning of his relatively privileged assignment and the machine he could control in gendered and erotic terms.

The themes of masculinity, self-control, and prestige animated the meaning of labor and job hierarchy throughout the California prison system. The furniture shop existed about midway in that hierarchy. It was not the pinnacle of labor opportunities, a place of honor were held by the Road and Forest camps in the Depression, and Harvest Camps or trade shops during WWII. Nor was it the nadir of labor assignments; the Jute Mill at San Quentin or the Rock Quarry at Folsom occupied these most degraded locations. The distinction between these privileged and degraded positions formed the ideological and material bases of labor hierarchies in these years.

Yet the official narrative of masculinity regained through labor assignment was countervailed by a prisoner-authored narrative, one which inverted the masculinist stories of earning a living through obedience and subservience to prison officials.

¹⁵ Robert Joyce Tasker, *Grimhaven* (New York: Alfred A. Knopf, 1928), 53-4. After he was transferred to a different job, he later referred to the moulding machine he worked by as “her.” He also called the machine his “passing love,” his “old flame,” and referred to their new relationship as one between “fickle lovers.” 83.

Donald Clemmer's 1940 sociological study offered among the most thorough examinations of life in the prison community, where prisoners themselves developed a counter-ideology to the state's assignment to labor. This was what Clemmer identified as a "con ethic."¹⁶ The key tenet of the con ethic was to maintain an "anti-administration attitude," and this was based fundamentally in a sense of masculinity. Clemmer related a story told by a prisoner about a guard who tried to instill respect and obedience among prisoners. Clemmer quoted the prisoner who told the story:

He [the guard] said, "If I were a prisoner here I'd keep all the rules. I'd work harder than I was required to work. I'd gain the goodwill of the guards; I'd shine their shoes if that would help, and I'D HELP THE OFFICIAL BY REPORTING TO MY OFFICER ANYONE WHO BROKE THE RULES. Now, will you promise me to do that?" The prisoner was well aware that he could be dismissed without punishment if he promised, but he merely said, "Deputy, I can't do that." "Why not?" the deputy yelled at him. "Because," said the red-headed lifer, "I'm a man." The inference, of course, is that the deputy was lacking in manhood and the deputy did not fail to draw it.¹⁷

According to Clemmer's informant, obsequiousness was a sure ticket to better assignment and to avoiding punishment, but the "red-headed lifer" was more deeply invested in his own countervailing masculinity and avoiding an image of servility.

The Con Ethic privileged a rugged masculinity, rooted in bodily strength and vigorous physicality, a culture that denigrated any obedience to state officials, and scorned any who may have aided prison officials in any way against another prisoner.¹⁸

¹⁶ Clemmer identified the "con ethic" as more of a guiding philosophy than a hard and fast set of rules. Prisoners commonly invoked the con ethic, but almost as common as these invocations were stories of prisoners turning each other into officials, in order to even personal scores and to secure better assignments for themselves. Clemmer, *The Prison Community*.

¹⁷ Clemmer, *The Prison Community*, 163. Capitalization in original.

¹⁸ Bederman, *Manliness and Civilization*. Bederman discusses the rise of white middle class virile masculinity as a response to their perceptions of more virile, violent, and powerful ethnic white and non-

It also championed an ethic whereby prisoners settled scores with each other through personal violence rather than through recourse to the state (which had poorly represented them in the past, anyway). When prisoners fought and gambled, and when they stole from each other, they participated in a culture in which personal vengeance needed to be meted out individually, in order to protect personal honor and capability of violence. These were foundational parts of inmates' conceptions of masculinity, part of the social world they made and in which they were inexorably bound. By the 20th century, and especially by the 1930s, this was part of a working class sense of masculinity and self control, one which connected to forms of labor and economic position, but one which was also rooted in prisoners' bodies. And prisoners, like the working class populations from which they disproportionately came, tried to maintain far more control over their bodies than they could over their positions in a turbulent, racially stratified economy.

Prisoners overlaid their own narratives on the official narrative of masculinity and labor. But instead of promises of patriarchal manhood, in which docility earned them a good job and the possibilities of a wage (money through which their manhood was consummated through consumer purchases at the commissary, or which would solidify their manhood by sending money to the women or children in their families), many prisoners sought self-control through their jobs. But unlike the official ideology of upright respectability, inmates valued jobs for the degree to which they might connive, steal, trade, or gamble. According to one of Clemmer's informants, jobs

white men. Prisoners did much to maintain a sense of working class and muscular masculinity, against the effeminacy they marked as accommodating to the administration.

weren't inherently meaningful to prisoners for their official status or hierarchy. More important were the benefits that came with the job: "It isn't the job, but the privileges attached to the job" that make it valuable and sought after by inmates.¹⁹

According to Clemmer, there were three kinds of prisoners in each prison system, which he labeled as Cons, Politicians, and Trustees. Most of the prisoners would have been classified as "Cons." Cons did the bulk of the work in the prison and occupied the lowest rungs of the prison hierarchy. "Politicians" were those prisoners who worked their way up the prison hierarchy, either through personal connections or, rarely, many felt, through skill. Politicians held the best jobs and were permitted to wear white shirts, and could sometimes eat in the guards' dining room. However, they were generally looked on by Cons as having gotten their positions illegitimately rather than through merit. "Trusties," in contrast, did outside work, got better food and more "freedom" in the institution, but had to work harder than most prisoners and demonstrate constant obedience to officials. Many Cons felt that Trustees were fools for not trying to escape.²⁰ Among all the inmate jobs that Clemmer described, house servants were thought to have the best job. Far from privileging a rugged masculinity, in this case, these jobs were valued because they allowed prisoners to wear clean clothes, have access to better food, and some modicum of independence. However, the regional specificity of Clemmer's research is revealed in the fact that in California, these were frequently raced and gendered positions, often reserved for Chinese and occasionally Filipino inmates.

¹⁹ Clemmer, *The Prison Community*, 277.

²⁰ Ibid.

Cons despised Politicians because they were able to connive effectively, to use their skills to convince officials of their worth, their connections, their education or their white racial privilege to become high ranking prisoners, positions they profited from in both official and unofficial hierarchies. Thus Politicians could connive more effectively from their locations in the prisons' political economy, buying and trading and manipulating the prison to their own ends. In this regard official hierarchies meshed with the unofficial ones, but they were still despised by prisoners excluded from each.

Interestingly, Clemmer used racially-inflected metaphors to describe the processes through which inmates increasingly rejected mainstream social norms, a process that Clemmer called "prisonization." He applied an immigration/assimilation model to a prisoner's entry into the penitentiary. Just as immigrants came to the United States and would become "Americanized" (read, whitened), shedding their ethnic identities to become American citizens, so too would people arrive in the prison and learn new ways of living and being, and become reoriented toward authority, toward other prisoners, and in themselves. When this went wrong, as it often did, prisoners became accustomed to life behind bars, which ill-prepared them for reentry into society, but trained them how to survive in prison. In Clemmer's interpretation of life in the *Prison Community*, the recalcitrance that Gresham Sykes would later identify as a defect of total power became racialized for white inmates, and confirmed racist officials' expectations of black and brown inmates. In a location where submissiveness would generally lead to good assignment, the ways that guards "read" prisoners'

identities and behavior as obedient or recalcitrant were racially-inflected (as well as racially explicit) in addition to being part of the disciplinary apparatus.²¹

Clemmer referred to prisonization by way of performance: in addition to the ways that prisoners ate and spoke, Clemmer described inmates' clothing as an indication of their behavioral attitude. Thus, prison officials, like other state officers who enforced the law, used their judgment to interpret an inmate's attitude and their behavior, and those judgments would have serious consequences for how prisoners were treated, and how they would respond to their incarceration. As one salient example, Clemmer, who worked within prisons and became a prison official, asserted that a prisonized inmate would wear his cap at the "correct angle" – that is, at a rakish tilt rather than straight on the head.²²

Clemmer's description of hats was particularly striking. First of all, the style that prisoners adopted was a way of claiming themselves and their bodies as their own by appropriating the state-issued clothes they were forced to wear, and over which they seemingly had no control. But wearing a hat at an angle rather than square on the head had long been practiced by African Americans, whose sartorial modes were proud expressions of dignity and worth as well as expressions of masculinity that differentiated themselves from those of the norms that denigrated them. That African Americans, Mexican American youthful Zoot Suiters, as well as ethnic white gangsters and prisonized convicts would share a clothing style speaks to how they performed

²¹ On the significance of police officers' interpretation of subjects' behavior (and particularly their race) in arrests for vagrancy, see Bryan Eustis Wagner, "Disturbing the Peace: Black Vagrancy and the Culture of Racial Demarcation," (Ph.D. Dissertation, University of Virginia, 2002).

²² Clemmer, *The Prison Community*, 305.

masculinities that were alternative to the mainstream. Where the style first emerged is hard to know definitively, but it likely emerged from cultures of dress and style that long grew as personal expressions under concerted domination.

Second, it is telling that Clemmer, as a liberal penologist and official, recognized this style – and this "black" style (though materially contributed to by Mexican American, Filipino, and white youth in Zoot culture) – as a marker of prisonization of white inmates – the subjects of much of his study. By his measure, a white man could be known as going fully bad – as leaving the mainstream of the white nation and entering the underworld – when he wore his hat at an angle – like a black man. When any prisoner, regardless of race, wore their hat at an angle, they would be more likely to be judged as a recalcitrant con, as Clemmer did, and sent to the harshest labor assignment. If they behaved well, or if they appeared to behave well, they would be assigned to the pinnacle of redemptive assignments.²³ Masculinity proved to be a key concept in opposing or in accommodating official hierarchies and labor assignments behind bars.

California's Honor Camps

Road, forestry, and, during World War II, harvest camps existed outside the prison walls, offered paid jobs, were characterized by less supervision and, from available evidence, by less harsh punishment. They were intended as a middle ground

²³ White inmates, unlike their black, Mexican, or Asian peers, however, could doff their caps when it was strategically expedient and thus symbolically "reform" themselves, returning to the fold of obedience and national citizenship. Black, Mexican, and Asian or Native American inmates could not shed their status so easily.

between prison and the “free world,” between unpaid custodial penal labor and the “unstable fiction” of free labor, as Gunther Peck refers to it.²⁴ Because prison labor was not supposed to impinge on the rights or wages of non-imprisoned workers, prisoners were to receive wages “at the going rate” that regular workers would, though neither prison officials, growers, or the United States Employment Service (through which contracts were signed) addressed the many repressive measures designed to limit agricultural workers wages.²⁵ In addition, penologists reasoned that neither road nor forestry work could impinge on the rights of “free workers” since the roads and forests protected were far from anyplace where free workers lived, or where unions could rail against the use of prison labor. Further, the scarcity of labor in these mountainous locales would have allowed those few workers available to demand a higher wage than road contractors would have desired.²⁶

The best behaved prisoners in the California prison system could earn the privilege of working on the Road Camps. These were locations where prisoners were ostensibly involved in redemptive masculine labor, intertwining the out-of-doors with wages paid, and service to the state. According to a 1933-34 *Biennial Report*,

²⁴ Peck, *Reinventing Free Labor*, 9.

²⁵ David Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986* (Austin: University of Texas Press, 1987); Carey McWilliams, *Factories in the Field: The Story of Migratory Farm Labor in California* (Boston: Little Brown, 1939), Kitty Calavita, *Inside the State: The Bracero Program, Immigration, and the I.N.S.* (New York: Routledge, 1992), Devra Weber, *Dark Sweat, White Gold: California Farm Workers, Cotton, and the New Deal* (Berkeley: University of California Press, 1994).

²⁶ On the “necessity” of unfree labor in a location of labor scarcity, see Stanley B. Greenberg, *Race and State in Capitalist Development: Comparative Perspectives* (New Haven: Yale University Press, 1980), Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996), Peck, *Reinventing Free Labor*; Howard Lamar and Leonard Thompson, eds., *The Frontier in History: North America and Southern Africa Compared* (New Haven: Yale University Press, 1981), Introduction.

From the standpoint of rehabilitation, these road camps are the most effective part of the prison system. The opportunity ... to do constructive work in wholesome surroundings, to become self-supporting, and to make some small contribution to the support of their dependants who would otherwise be a public charge, has made these camps invaluable.²⁷

Application to work on the road camps was an involved affair, and required significant work and a good record. Prisoners who hoped to work in the road or forestry camps could apply to the road camps provided he could meet the following list of qualifications and endorsements from prison officials.

1. When he has served his minimum term and his sentence has been definitely fixed by the Board of Prison Directors.
2. When he has served no less than six months with good conduct after having lost privileges.
3. When he can receive endorsement from the Head of the Department under whom he has worked for the past six months.
4. When he can receive endorsement from the Resident Physician, Dentist, and Captain of the Yard.
5. When he has carefully read the rules and regulations governing conduct of prisoners at road camps.
6. If he has never escaped from a prison road camp or a prison.
7. If he has never been returned from a road camp for a violation of any of the rules.
8. Lifers must have first served six calendar years.
9. When he has less than six months actual time to serve at the road he is not eligible.
10. If he has no wanted or deportation charges against him.²⁸

Road camp prisoners worked "clearing, grubbing and grading, erecting retaining walls, and installing small drainage structures" for roadways in remote and mountainous parts of the state. "Grading involve[d] drilling rock in preparation for blasting, hauling materials into fills and moving surplus earth and rock to one side. Standards and

²⁷ *Biennial Report of the State Board of Prison Directors of the State of California, 1933-34*, 8. CASL, Government Publications Room.

²⁸ "How to Qualify for Road Camps," *The Bulletin*, January 1925, 11. CASL Government Publications.

specifications adhered to are equal to those prescribed under free labor contracts.”²⁹

While jute mill workers labored under tubercular and cold conditions, road camp workers occupied a middle ground between incarceration and parole. They earned a modest wage (averaging around eight dollars per month), which they could send to their families, spend in the commissary, or save for their release. In mimicking “free labor,” road camp inmates were expected to pay for their tools and for much of their own upkeep on the camp. Members of the Board of Prison Terms and Paroles members estimated that a prisoner needed to work for eight months at a road camp to “earn sufficient money to pay for their clothing, blankets, tools and other equipment which the law states must be supplied and charged to them.”³⁰ Nevertheless, life at the road camps was far from the emasculating conditions of the prison (as they understood it), doing hard and manly work in the open air, and earning money to send to their families. In this they were closer to the idealized position of the male patriarch than they would be in the jute mill, the Folsom quarry, or at virtually any other job in the prison. This – along with the extra good time earned toward release – was the main appeal for working in the road camps.

Yet despite the privilege of working in the road camps, some observers described that working conditions were less than ideal, and that the prisoners were far

²⁹ Prison Industries Reorganization Administration, *The Prison Labor Problem in California*, 1937, 29.

³⁰ San Quentin Minutes of the Board of Prison Terms and Paroles, March 6-8, 1940, 339-340. CSA, F3717:1077. No where is it discussed if prisoners were able to keep the tools they bought after they were released. Further, having prisoners pay for the tools they used mimicked the idea that they were “free workers” while compelling them not to break their tools.

from ideal workers. In 1926 the California Highway Commission described some shortcomings:

The atmosphere of the camps is charged with secretiveness, sullenness and silence. Conversation is in low tones. No laughter or song is heard. There is always something to kick about. The desire to be efficient is absent, for there is no reward for same. The convict does as little work as possible and is extravagant with all materials as possible.³¹

Yet this critique was generally muted among the paeans to the rugged masculinity engendered by the Road Camps. A *Bulletin* article described one road camp, populated by 120 prisoners up in the high Californian mountains:

Working over terrain exceptionally difficult for highway construction these men are building a monument that will endure time. Fills of gigantic proportions, tunnels and cuts through solid rock, bridges over streams that become torrents in the spring, retaining walls of concrete to prevent slides, adequate drainage and a surface as smooth as a show-room floor, are the results of their work. The corners of mountains have been reshaped to build this highway. Done by prisoners. Truly, it is a mark of honor to the men of San Quentin.³²

There was, of course, a profound difference between the chain gangs of the Deep South and the Road Camps of the Western United States. In Georgia, for example, chain gangs were highly degraded and racialized practices of brutality and public shaming, spreading the benefits of convict labor to the state and honoring the visible spectacle of the local constabulary's authority.³³ In California and Colorado, the Road Camps were literally Honor Camps for the best behaved prisoners, and inmates on the road camps

³¹ *California Highway Commission Biennial Report*, 1926, 144. Cited by Barbara Jeanne Yaley, "Habits of Industry: Labor and Penal Policy in California 1849-1940" (Ph.D. Dissertation. University of California at Santa Cruz, 1980), 293-5.

³² R. D. Burdick, "Oroville to Keddie," *The Bulletin*, June 1933, 5. CASL Government Publications.

³³ Alex Lichtenstein, "The private and the public in penal history: A commentary on Zimring and Tonry," David Garland, ed., *Mass Imprisonment: Social Causes and Consequences* (London: Sage Publications, 2001), 171-178.

earned some wages and were bestowed with some of the legal accoutrements of citizenship (at least during daylight and working hours).³⁴ The difference was fundamentally a function of the racial populations of Western prisons, which, in the first half of the twentieth century, were predominantly white institutions to reinstitute class control more than they intermingled racial domination with class control.

The Bottom of the Ladder: Jute Mill and Quarry

The Jute Mill was opened in the 1880s to set California prisoners to work in profitable and productive labor. As discussed in the previous chapter, since its earliest days prison officials and most labor activists permitted inmate labor in the jute mill because the only workers it would hurt in California were Chinese; all other jute was imported from India and was part of an explicitly colonial economic system. Given the racial privilege associated with whiteness and esteemed labor, and the racial taint of unfree labor, the jute mill was understood as a degraded labor assignment from its inception. Yet the degradation was more than symbolic. According the 1912 autobiography of Donald Lowrie, *My Life in Prison*, the dust and jute fiber thick in the air did little to dampen the clamoring din of the mill. Lowrie described the jute mill in terms that would ring true to Blake's ideas of both dark and Satanic. Men lost fingers and limbs, were punished for not making their tasks, and there can be no question that the dust in the air was damaging to prisoners' lungs. Lowrie wrote:

³⁴ On Colorado Road Camps, see Elinor Myers McGinn, *At Hard Labor: Inmate Labor at the Colorado State Penitentiary, 1871-1940* (New York: Peter Lang Publishing, 1993).

New men get caught in the machinery or in the belting through inexperience or lack of proper instruction and caution as to the danger. There is not a single shield [protective device] on any of the cog mechanisms that I ever saw on the hundreds of machines in the jute mill at San Quentin - certainly not on the looms.³⁵

Thirty years later, another prisoner described the jute mill as

something to give you nightmares. It is a madhouse of bedlam, a half-century old, one-story contraption, with a cement floor – cold! It lies very close to the San Francisco Bay high-tide level, and is ever damp – and cold! It is dusty, and some men suffer jute-poisoning. Jute-poisoning is something that breaks the skin, festers, eats at the vitals. Some men that catch it never get well.³⁶

These descriptions of the jute mill could not be dismissed as mere prisoners' hyperbole of victimization, as officials were wont to do. Leo L. Stanley, San Quentin physician and hardly a sentimental advocate of prisoners, frequently treated prisoners who had been "mangled and torn by accidents in the jute mill and quarry."³⁷ Dwight Myers was one such prisoner. Accustomed to forcing open gear box doors to work on a malfunctioning rover, Myers' hand was crushed by moving gears when a door opened unexpectedly. He had three fingers amputated in the prison hospital.³⁸ Not only were hands mangled in the Jute Mill, but it was also a breeding ground for tuberculosis. Stanley explained to his fellow physicians that "Bad ventilation of the jute mill caused

³⁵ Lowrie, *My Life in Prison*, p. 138, cited in Yaley, "Habits of Industry," 277.

³⁶ H. Buderus von Carlshausen, aka "Roark Tamerlane," "America! -- add stars to our stripes," typescript, CASL CA History Room, 365 C284. p. 26.

³⁷ Leo Leonidas Stanley, MD, "Twenty Years at San Quentin," p. 390. CASL CA History Room

³⁸ See Dwight Meyers testimony. (No convict number listed.) Governor's Hearings/ Transcript of Hearings vs. State Board of Prison Directors, Vol. 3. CSA, Dept of Penology Records, F3450: Vols. 1-4, 6 (Vol. 5 missing), 1323-1331.

the air to be full of fine particles of dust, which injure the air passages, leaving a fertile field for tubercle bacillus.”³⁹

A 1933 *Bulletin* article strove to counter claims such as these, describing the great progress made by prison administrator and overseers in prisoners’ labor as training in the habits of industry. Jute Mill Superintendent E. F. Zubler claimed that he had been trying to mechanize the mill for 13 years. "I have seen strong men cry like babies as they labored despairingly to complete impossible tasks. Punishment for failure to make the required yardage was severe and certain. No excuses were accepted. Broken looms, rotten jute strings, defective equipment took not a yard of cloth from a man's stint." Zubler continued, "I can operate any machine in the mill as expertly as the best, but even I could not make task under those conditions. I have seen loom tenders, and cob winders spend more time tying knots in rotten twine than operating their machines."⁴⁰

The prison administration put in a new roof to stop the leaks that had obviously been in the factory previously. There was a ventilator to draw out the dust created by the process. And, they would only use high quality jute, unlike in the past. According to the author of the article, "Great changes have taken place in what was once an infamous place of torment. But even greater changes are in prospect. A new, modern

³⁹ Leo L. Stanley, "Tuberculosis in San Quentin", Read before the California Medical Association, 67th Annual Session, Pasadena, May 9-12, 1938. Reprinted in *California and Western Medicine*, vol 49, no 6 (Dec 1938) and vol 50, No 1 (Jan 1939), Bancroft Library, F863.66 S72.

⁴⁰ "The San Quentin Jute Mill", January 1933 *The Bulletin*, p.21. CASL Government Publications. Zubler’s concern for prisoners’ well-being is admirable, but we might ask who mandated punishment for not making task if not he, the Superintendent of the Jute Mill. Further, the entire article was rooted in the popular culture of punishment’s progressive narrative, explored in detail in Chapter 5 below, focusing on prison radio programming. The basic narrative was "We acknowledge that conditions were bad in the past; and because we acknowledge that, you can see how much better conditions are today."

building in which working conditions will be of the best is to be erected in the not far distant future." Lest anyone think that this was better than life on the outside, the author wrote, "San Quentin's Jute Mill is far from being a pleasure resort, however. A man who puts in a week's work there will know that he has been working.... [C]onditions in the Jute Mill have improved, and ... intelligent management not only makes tasks easier, but increases output tremendously."⁴¹ Despite the warm words used to describe the jute mill's improvement, the 1939 California Industrial Accident Commission counted some 283 cases of unsafe working conditions in San Quentin. By far the majority of these were in the Jute Mill, with 77 reported cases reported.⁴²

The actual task of working in the jute mill was numbing, loud, dusty, and dangerous. Another story in *The Bulletin* described the conditions of labor for mill workers. Prisoners arrived at 7am, and worked until their tasks were completed. They could take occasional breaks, provided that they accomplished their tasks. The work was repetitive and boring. Workers would thread the cop end of the jute through a shuttle, lock the shuttle and fit it into the box, and then pushed the starting lever over. When the shuttle mis-fed, and it did so often, it needed to be situated correctly or it risked tearing up the warp, which would then need to be re-fed with string.⁴³ Much of the jute mill's aging equipment was in tatters. A 1930 report on prison labor explained that much of the equipment and tools used in the furniture factory were, in fact, made

⁴¹ "The San Quentin Jute Mill", January 1933 *The Bulletin*, p.21. CASL Government Publications.

⁴² San Quentin Board of Prison Directors Minutes, 1938-9, 218, Nov 9 1939. F3717:1009, CSA.

⁴³ Tom Gaghan, "At Work in the Jute Mill," *The Bulletin*, May-June 1935, 22-24, CASL Government Publications.

by prisoners.⁴⁴ This was certainly a form of prisoners' creativity and bricolage. As workers, they were the ones who were forced to make the machines function, and their creativity and inventiveness allowed the jute mill to function. If they did not, they risked punishment. Time spent repairing machinery would eat into the task that prisoners were supposed to make each day in the jute mill, and according to testimonies from most of the early twentieth century, prisoners risked punishment for not making their task.

Yet between the description of labor above, and the adoring description of progress in labor conditions and the positive training of inmates at labor in the jute mill, the authors of a 1939 Special Crime Study Commission report had different opinions of the mill.

The jute mill at San Quentin in no way qualifies as a desirable correctional industry. Its machinery is so old that few useful vocational skills can be learned therefrom. There is no jute industry in California or the West in which the inmate could capitalize on whatever experience he may acquire while assigned to the mill.⁴⁵

As historian Barbara Jeanne Yaley has suggested, by the 1930s the jute mill no longer functioned as a productive labor process, but rather served as an institution of

⁴⁴ California Taxpayers' Association, Inc., "Report on Prison Labor in California," Los Angeles, 1930. Archived at the Bancroft Library, University of California at Berkeley, F862.8.C228.

⁴⁵ "Special Crime Study Commission" Report, 1939. Cited in Yaley, "Habits of Industry," 281. The tenor of this quote is very different from the story written in *The Bulletin* about the Jute Mill, in which the inmate author praises the improvements in the Jute Mill and especially its reformatory capacity for re-making responsible men and citizens deserving of parole. While the members of the Commission likely wanted to modernize the productive capacity of San Quentin Industries, while also benefiting inmates in classic liberal reformer style, Hal Eble, the imprisoned author, was put in the position of *defending* the jute mill as a positive good in his and other prisoners' lives. He was forced to do so to enable the claim that he was a good man and a deserving citizen. This was among the contradictions of prisoner-authored writings: while they had perhaps the best reasons and, among prisoners, were most able to publicly criticize their conditions of labor, they also needed to defend the conditions of labor created by prison authorities in order to make a claim on productive citizenship and proper manhood.

punishment within the prison itself, a location for degrading prisoners and containing them for at least some hours of the day. Yet even in punishment – some prisoners could find pride in their labor and understand their punishment in the jute mill as a source of identity. This had been the case with Wobblies imprisoned for criminal syndicalism, who, according to one inmate writer, received the harshest labor assignments.

Never once did one of their number receive anything in the nature of easy work. Not one of them would have accepted an office position, with the slight advantage the place entailed; nor would one of them have been chosen for such a position. They worked in the jute mill, the gardens, or the stables.⁴⁶

Though Wobblies were hardly typical of prisoners in the 1930s, it stands to reason that some prisoners, at least, found their punishment in the jute mill a source – if a pained one – of an anti-administration identity. And they sabotaged the jute mills accordingly.

Such was the case for George Boston Gray, a prisoner received at San Quentin in June 1934 for Petty Theft with priors. In November 1935, he was punished for "deliberately breaking [a] shuttle in the jute mill," a classic mode of resisting forced labor. Getting caught in his sabotage of the means of jute production, and because this labor was a means of control, a means of repression, cost him three months of his future six months on parole.⁴⁷ Alfredo Contreras, convicted for violation of the State Narcotic and Drug Act, was received at San Quentin in August 1934, Like Gray, Contreras was punished "for continually neglecting his work in the Jute Mill and making bad spools

⁴⁶ Tasker, *Grimhaven*, 191-2.

⁴⁷ San Quentin Minutes of the Board of Prison Terms and Paroles, Nov 25/26 1935 meeting, p.485. CSA, F3717:1073. Gray's San Quentin number was 56141.

after repeated warnings."⁴⁸ Such punishments were common for prisoners at the jute mill, for whom sabotaging the tools of production – which were also the tools of their punishment – bespoke an oppositional practice that thumbed its nose at prevailing ideologies of self-discipline and upward mobility through labor.

The ideology of upward mobility worked most effectively for white prisoners, who could ascend the penal hierarchies more easily than could black or Mexican prisoners, who were constantly disrespected and shuttled across a series of subordinated jobs. Edward Brown, a black prisoner listed as San Quentin #54389, archived as Folsom #21990, provides a case in point. Brown was born in Wilmington, Delaware, and had worked as a chauffer in Los Angeles. He was first received at San Quentin in July 1933 for 2nd degree burglary in Los Angeles County, where he and an accomplice were charged with stealing cheese, bacon, and other foodstuffs from a grocery store in Pasadena. Brown had been arrested for vagrancy in Massachusetts and in San Jose, and for attempted highway robbery in Newark, New Jersey, and held for 30 days in Pasadena for intoxication and petty theft, while he was investigated on suspected burglary charges. Because the deputy District Attorney suspected Brown of other crimes, he saw "no reason for leniency in this case."

At San Quentin, Brown worked in the Jute Mill, and was then switched to a Janitor in the Educational Department, and the Department of Public Works (internal to the prison), as a yard sweeper, and to the New Road crew (also within the prison grounds – not a road camp). All of these – jute mill, sweeper, and janitor – were

⁴⁸ San Quentin Minutes of the Board of Prison Terms and Paroles, Dec 1935 meeting, 496. CSA, F3717:1073. Contreras's San Quentin number was 56463.

subordinated jobs in the official economy of the prison. He was punished for fighting in the yard and in the New Road crew. Brown was discharged from San Quentin in 1938, but returned to Folsom in November of the same year for 2nd degree robbery in Sacramento. He pled Not Guilty but was given an indeterminate sentence of one year to life. While at Folsom, Brown was punished for playing dice with prisoners named Shapiro and Nailon in 1939, and for cutting a prisoner named Carpenter on the face in 1940. (The prisoner he cut, however, claimed that he didn't know his attacker's name, and thus obeyed the convict code of not aiding the administration against another prisoner, even in the face of an assault.) Brown was also punished for having a knife in 1941, and for hacksaw blades (which he said he made picture frames with) in December 1942.

Brown requested to work on the harvest camps in April 1943, writing that he'd been at the Folsom Ranch for six months, while other prisoners who had been there for just weeks were transferred to the harvest camps. As a very poor man, and with no money, "I would like very much to get a chance to earn a few dollars."⁴⁹ He applied again for a daily harvest camp in June 1944, and apparently did work in a harvest camp for some period of time during the labor shortages of the Second World War. Yet unlike the cons that came and went to the harvest camps while he remained on the Folsom Ranch, it took him a far longer time to benefit from this privileged opportunity.

By and large black prisoners worked in the worst jobs in the California prison system. Like most prisoners, they were initially assigned to the jute mill, but unlike

⁴⁹ Edward Brown, 21990, Folsom Inmate Case Files, CSA.

many whites, they were less likely to be promoted out of the jute mill and into other positions. R. C. Hilliard was born in Bay City, Texas in 1898 and moved to Los Angeles in 1919. Hilliard, SQ #49401 was brought to San Quentin in September 1930 for 1st Degree Robbery and Assault with a Deadly Weapon for robbing a Ranch foreman in Fresno, where he had worked picking cotton.

While at San Quentin, Hilliard worked in the jute mill for more than a year, was transferred to the tailor shop for two years, and held a series of different jobs in the institution, the majority of which centered on sweeping and janitorial work – in the Yard, the Hospital, the Educational Building, the Clothing Room. In addition, Hilliard worked in the White Wash Gang, and later was part of an assignment known simply as "Cranks."⁵⁰

White inmates frequently began in the same way, but moved into more varied positions in the prison hierarchy of labor roles, such as the shoe shop, the laundry, tin shop, or into positions of greater authority, such as the newspaper or the clerk's office. Edward Kavanaugh was born in New Orleans in 1895. In 1917 he enlisted in the US Army and served in the medical corps, based in Newport News and New Orleans. Kavanaugh worked as a detective in New Orleans, as a deputy Sheriff, where he was investigated, but acquitted, for bribery. Kavanaugh and his wife moved to Los Angeles in 1926. Kavanaugh had been working as a night watchman at the United Artists' Theater in Los Angeles, which he and his wife were accused of burglarizing, netting

⁵⁰ San Quentin Inmate Case Files, R. C. Hilliard, 49041, see also H. L. Andrews Folsom 16449, San Quentin #37282. According to Chester Himes in *Yesterday Will Make You Cry*, "Cranks" may have suggested the section of prisoners who were physically injured and therefore could not work.

\$12,810 in cash. He had been laid off a few days before the break in, and the manager claimed that he had seen Kavanaugh looking through the book in which the safe combination was kept.

At San Quentin, Kavanaugh bypassed the jute mill entirely, working first in the furniture shop as a machinist, for 1 1/2 years. He continued making furniture, but in different positions, until May 1932, when he was transferred to the Road Camp # 25. He was returned to the prison "for the good of the camp" in November 1933. Presumably he had been misbehaving in some way, and he was immediately placed in the jute mill for punishment. But he remained in the jute mill for less than a week before being transferred back into the furniture shop. He was granted 1 year on parole to return to Louisiana, beginning in March 1934. He violated his parole for an undisclosed reason, and was returned to San Quentin at the end of April, 1934. He was discharged from San Quentin about a year later, at the end of April 1935.⁵¹

White prisoners were frequently given the benefit of the doubt in sentencing and in their assignments. Such was the case with William Raymond Moore. Moore was from Oklahoma, and he and his family had moved from there to Kansas and Arizona to try to grow food. In 1939 they settled in the San Joaquin Valley, looking for day labor, and then to Santa Paula, where Moore did some longshore work in 1941. He was received at Folsom in December 1944 for Second Degree Robbery and sentenced to 1-life. While this indeterminate sentence seemed harsh for second degree robbery, it was, in fact, a lenient one, given the terms of his crime. Ascencio Torrez Juarez, a Mexican

⁵¹ Edward Kavanaugh, 48000, CSA, Inmate ID cards; also Inmate Case files, F3750:381.

National and migrant laborer likely part of the Bracero Program, was looking for a ride to visit friends at a nearby Filipino labor camp when Moore and two friends offered to take him there. However, once in the car, Moore and his friends drove past the camp and restrained Torrez Juarez from getting out of the moving car, taking him into the foothills north of the town of Saticoy. There, they robbed him of 22 dollars, stripped him naked, and chased him into the bushes with a knife. Moore pled guilty to robbery, thus avoiding the kidnapping and assault charges. Clearly sympathetic to Moore, the sentencing Judge stated that he would help the defendant in any way he could, especially since he had been helpful in the case. "I'll give you all the break I can, young fellow," the Judge told Moore – hardly the recommendation against leniency that Edward Brown garnered from the court. While behind bars, Moore worked in the furniture shop and in the guidance center at San Quentin. He also worked as a member of the demolition crew.⁵² Had the racial identities of the aggressors and victim been reversed, the punishment almost certainly would have been far more severe.

Despite concerted racial differences in sentencing and in general treatment, the rules of racial segregation at labor in California's prisons were not entirely fixed. Instead, racial segregation provided broad guidelines for structuring the prison workforce. Race was one factor that structured prison labor – an important one, certainly – but one that worked in tandem with perceived quiescent versus recalcitrant

⁵² Folsom Inmate Case Files, William Raymond Moore, Folsom A-700. Clearly Moore's violence and robbery of the Mexican man was part of his tentative claims to whiteness and white supremacy, especially since he was young, broke, and living on the edges of society. The judge wanted to give him a break, and the racial and national status of the victim, a Mexican migrant farm laborer, lessened the degree to which he could be socially injured. Like the attacks on Mexican youth in the 1943 Zoot Suit Riots, the assault, robbery, and stripping of Torrez Juarez was effectively a symbolic lynching.

behavior. And when something as simple as the angle of a hat could be read as recalcitrance, this was a blurred line in which guards' opinions, perspectives, and common bigotry played key roles.

Recalcitrant prisoners of different races worked alongside one another, in the quarry and the lower yard at Folsom and in the jute mill at San Quentin. In addition, at Folsom in the 1940s the brush gang, which had formerly been all black, now had black and white inmates working together.⁵³

Alfred Jardine, a prisoner listed as racially Portuguese spent the majority of his time in San Quentin's Jute Mill. Jardine was involved in a number of fights at San Quentin, and between his fights and his punishment for involvement in a 1939 food strike, he spent four months in solitary confinement. As a result of his behavior, he spent the majority of his sentence working in the jute mill or as a sweeper – jobs reserved as punishment for recalcitrant whites, or for black, Asian, or Mexican prisoners.

Just as there were white prisoners who occasionally worked in the worst assignments, so too could black prisoners acquire jobs away from the Jute Mill, even rising so high as to earn wages at the road camps. George Johnson, San Quentin #47146, was received at San Quentin in June, 1929, for burglary – stealing \$4.50 and a gum dispensing machine from an Associated Oil Company office in Chico. He was also sent to a road camp in September 1930, and returned March 1931, just days prior to

⁵³ C. H. Daseking Testimony, Vol III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, 600-2. CSA, Earl Warren Papers -- Governor's Committee on Penal Affairs -- 1943-44, F3640:958.

his release. He had just been released from the Preston School for Boys prior to his arrest, and was therefore no more than 18 years old at the time. His youth likely had something to do with his assignment to the road camp. He was returned to Folsom on a later charge of robbery, and worked in the General Mess – a racially segregated labor assignment in itself, where black prisoners were segregated from white and Mexican prisoners.

While conditions of racial segregation and labor hierarchy broadly structured the privileges that prisoners received or could claim, these were overlaid with how docile inmates appeared to prison officials. This was true for black, white, and brown prisoners.

Obedience and servility were rewarded by prison officials as much as if not more than good work performance and a clean punishment record. John C. Hurst was sent to San Quentin for petty theft with prior convictions in 1943. Hurst had been in jail or prison for much of his life, serving time in San Quentin, Folsom, and the Oregon State Prison. By 1943, he felt himself to be too old to participate in the conflicts and markets of masculinity and violence within the prison, opting instead for the protection that officials could offer. He likely knew that he could not survive in the harsh world of the jute mill, where his fingers could get crushed in the gears or by prisoners, or in the quarry, where inmates commonly fought and smuggled knives for protection or aggression. Instead, the 47-year-old, five-time recidivist decided to align himself with the administration.

In previous sentences Hurst had worked in the Jute Mill and at other locations, but was quick to become a “stool pigeon,” in the words of one San Francisco probation officer. Thanks to his pro-administration actions at San Quentin and at Folsom, he was given better work opportunities. While he was at Folsom he gave incriminating information to officials, which resulted in another prisoner’s charge on narcotics violations. As a result of reporting on another prisoner, he believed that he was in grave danger. He was moved to San Quentin for his own protection.

The information Hurst gave to officials proved very useful, if not to officials than at least to himself, even if it proved risky to give that information. A San Francisco Probation Officer noted that Hurst was "open to attack while in jail by inmates; as a result of this he was given a fairly decent job. Evidently, he has been a stool pigeon for the Police many times in the past." Hurst received much better labor assignments as a result. He became a trustie and chauffer at Folsom, driving guards and the Warden outside the walls. And after he was transferred to San Quentin, he became the Con Boss in charge of the Department of Public Works office inside the walls in 1940 and 1941.

In numerous letters to Warden Duffy, Hurst claimed to be "obedient and submissive" and "loyal and cooperative" to prison officials. In taking a loyal and submissive stance to prison officials, he disclaimed the world that the cons made in favor of the beneficence of the prison administration, even to the point of risking his own life by incriminating other prisoners. For this he claimed that his life was

threatened by prisoners, and that he was "cut once and nearly beaten to death another time."⁵⁴ Yet he was rewarded for his obedience.

The Concentration Camp: Folsom's Rock Quarry

At Folsom Prison, the rock quarry served the same punitive role that the jute mill did at San Quentin. The work was hard, dirty, and dangerous under the blazing central valley sun, where temperatures commonly topped 100 degrees in the summer. Prisoners consigned there understood that their punishment was meant to be harsh and degrading. Prisoners' name for the quarry – the Concentration Camp – said it all. Robert W. "Cannibal" White, an African American prisoner sent to Folsom after his second conviction for burglary, wrote a letter to the warden explaining that reform was nearly impossible from his assignment to the quarry. Because the most recalcitrant of the prisoners were sent to the quarry, it was very difficult to stay out of trouble. He also explained that "I don't have an easy time trying to go to school" from the quarry. In other words, it was difficult to manage the few reformatory offerings at Folsom while dealing with punitive hard labor. White requested that he be sent to work in the mess hall, or in the laundry, rather than in the quarry, where the worst prisoners were gathered. Redemption was difficult, if not impossible in the quarry, where "there is a lot out there that gose (sic) on out there that you dont know."⁵⁵

Charles Scott, Folsom #21290, was an African American man born in 1903, in Nagadoches, Texas. Scott traveled to California in 1932, returned to Texas, and came

⁵⁴ John C. Hurst, San Quentin #63585, Folsom Case Inmate Case files.

⁵⁵ Folsom Inmate Case Files, RW White, #23921. CSA, F3745:575.

back to California in 1935 after reported run-ins with the law in his home state. He had served two years at Huntsville for burglary previously, but denied that he was guilty. He had worked as a trackman for Pacific Railroad, as a laborer in oil fields near Phoenix, Arizona, as a fireman shoveling coal in an electric power plant. He arrived in California in 1935, picking cotton in Bakersfield and washing cars in Los Angeles. He was working on a truck making runs between the Imperial Valley and Los Angeles when he was arrested for stealing a crate of eggs to give to the owner of the boarding house where he stayed.

Scott was received at Folsom in September 1937 under this charge for second degree burglary. The Los Angeles district attorney felt that though stealing a crate of eggs was a minor offence, "the Court denied a county jail sentence because ... the defendant appears to be a confirmed thief or burglar." Scott was thus sent to Folsom, to teach him a lesson. Two years later the Los Angeles District Attorney recommended against parole "or further leniency" because of Scott's record and, (strangely, given that he had stolen eggs), because of "the character of the offense of which the defendant was convicted."

While at Folsom, Scott was assigned to labor in the gravel pit in the Quarry No. 2. In November 1939 Scott was punished for swearing at a guard, and telling him that "he didnt (sic) want to load their God dam Rock," and throughout his protest, "he kept up quite a string of such profanity." In April 1940 Scott was written up for having two

knives in his possession, and in February 1941 for fighting with another inmate.⁵⁶

Scott, assigned to Folsom for stealing eggs in the thick of the depression, was effectively made into a maximum security prisoner over the course of his incarceration, where rehabilitative opportunities were few and tempers were high.

White prisoners also complained about their assignment to the Concentration Camp. Albert Ellsworth Jackson , Jr., a white man born in 1907 in Milwaukee, had been arrested for forging checks nine times between 1927 and 1935. Jackson returned to the California State Prison system in 1938, and again for violating his parole by writing another bad check in San Francisco. When he was returned to the prison after being a parole violator for 14 months, he was sent to the rock quarry as a punitive labor assignment. He complained about this in a February 1942 letter to Warden Plummer: “Captain Ryan assigned me to work in the Ranch Rock gang, known as the ‘concentration camp.’” Jackson felt that this assignment was unjust because regardless of the bad checks he had written on the outside, within the prison "my conduct record is spotless" and he had never been "on the line" or in lockup. Jackson proposed instead that he be assigned to work on radio installation for Folsom, as he had previously owned a radio-making business.⁵⁷

Every bit as important as the contribution he said he could make to the institution, Jackson felt that he did not belong in the rock quarry, because of his education, behavior, and, more than likely, his race and class status: "I am a more or less harmless individual and I do resent being made to work and associate with the men

⁵⁶ Charles Scott, #21290, Folsom Inmate Case Files, CSA. See Scott’s Nov 27 1939 Punishment Report.

⁵⁷ Albert Ellsworth Jackson , Jr, SQ #50939, Folsom #21611, Folsom Inmate Case Files, CSA.

of the institution who are continuously in trouble – assigned to the 'concentration camp' for possession of a knife, fighting, or general misconduct." Jackson strove to sway the Warden that he belonged in the white collar world of the prison. Though it is unclear as to whether or not he was assigned to work in the radio installation after his pleading to the Warden, Jackson was later assigned to the prized harvest camp assignment at the Straloch Farm, where he could earn a wage and connive some goods for himself. Indeed, it seems likely, especially from an intercepted November 3 1942 letter (which told in code and nickname how to send checks and postal money orders to other prisoners) that Jackson was a well-connected conniver himself.⁵⁸

Though the quarry and the lower yard were the worst of Folsom's assignments, they were not sites of absolute racial segregation. Even though black prisoners were sent to the worst jobs, they also worked with the worst of the white prisoners while they were there. Disobedient white prisoners were racialized, and black prisoners were forced into the most degraded and violent conditions, with the most dangerous black, white, and Mexican prisoners.

There were approximately 470 prisoners working in Folsom's Lower Yard on the No. 2 derrick in the Depression and war years. Conditions were crowded, and prison workers were divided into the "house gang," the "breaker gang," the "roustabout gang," and some "car loaders," each of whom had specialized jobs in the quarry. Some

⁵⁸ Albert Ellsworth Jackson, Jr., SQ #50939, Fol #21611, Folsom Inmate Case Files, CSA.

worked in the mornings and others worked in the afternoon.⁵⁹ Donald Clemmer described the quarry at the prison he researched in the early 1930s. While conditions certainly differed from Folsom's quarry, his description offers suggestive insight into conditions in California. And though Clemmer was generally silent about race in prison, he did note that black prisoners were frequently assigned to the dirtiest and hardest assignments, such as the quarry. Being racially Negro and being among the most dangerous criminals were ideologically, spatially, and behaviorally conflated in a liberal vision of race, crime and reformability (which anticipated the failures of liberal penology pinpointed by George Jackson more than a generation later). Furthermore, the worst criminals were assigned to this job. In addition, from one quarter to one third of the six different quarry gangs at Clemmer's prison were black.⁶⁰ According to Clemmer,

The quarry process includes the removal of the surface dirt by hand shovels, dynamiting (done at noon when the men are at dinner), "making little ones out of big ones," that is, breaking the dynamited rock with 30-pound sledge-hammers and chisels, wheelbarrowing, loading the broken rock into the small, cast-iron cars which are on a track, pushing the cars to the stonecrusher where it is ground or pulverized according to what is needed. The inmates have various jobs. Some are "shovelmen," some are "hammermen," and some are "pushers." The work is heavy, hard, and dirty.⁶¹

Even within the conditions of universal degradation for prisoners in the quarry, there seems to have been racial segregation. White prisoners were assigned to skilled

⁵⁹ Testimony of Edward D. Clark, Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, 292-303. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:957.

⁶⁰ Clemmer, *The Prison Community*, 77-8. The knitting mill, however, was intended for younger, white inmates, and maintained a few Negro porters. Thus black prisoners in more privileged locations were still frequently racially subordinated.

⁶¹ Clemmer, *The Prison Community*, 77.

jobs, even within the quarry. James H. Freeman, a white Arkansan, had been living and working on ranches in the Central and Imperial Valley since he came to California in 1936. Trained as an auto mechanic and as a tractor operator, Freeman had been picking cotton and living in a cotton camp in Hanford when he was arrested as a recidivist for Grand Theft. On his arrival at Folsom in July 1941, he was sent to work as a blacksmith on the lower yard, where his “Arkie” status was likely superceded by a starker whiteness in this multiracial location.⁶² Clifton Longan, a white coal miner born in Missouri in 1903, was sentenced to Folsom in 1937 for Petty Theft with prior convictions. Longan had previously served time in Kansas for Auto Theft. Like James H. Freeman, Longan worked in the Lower Yard as a Blacksmith – a skilled position in the worst assignment.⁶³ But it was still a better than working in the gravel pit, or doing pick and shovel work, as most black prisoners did.

As black Folsom inmate W. Mills wrote to the Governor’s Investigating Committee in 1943, "Our servitude here is limited to inferior work. The only work that is given to Negroes is such as porter work, digging in the ground and breaking rock or what ever else the white inmates don't want to do."⁶⁴ Among the most powerful testimonies offered to racial segregation in the California Prison System came from Wesley Robert Wells, a black prisoner who contested the conditions of prison Jim Crow, and whose death sentence for throwing an ashtray at a guard became a rallying

⁶² James H Freeman, Folsom 23820, Folsom Inmate Case Files, CSA.

⁶³ Clifton Longan, Folsom 21270, Folsom Inmate Case Files, CSA.

⁶⁴ W. Mills, Folsom #21935, Nov 30 1943 letter to Julian Alco, Earl Warren Papers – Administrative Files – Corrections -- Governor's Prison Committee – Correspondence (Folder 5), 1943--44.

point for Civil Rights and radical labor advocates in the 1950s.⁶⁵ In a 1951 pamphlet sponsored by his defense committee, Wells explained that racism abounded in the California Prison System when he arrived there in 1928. "There was a lot of jimcrow (sic) stuff in Quentin in those days—just like there is now. Then you were constantly addressed as a 'n---r,' you got the worst jobs, and if you objected you were a marked number."⁶⁶ Wells said that he simply refused to be treated as a second class citizen, even within the prison. "I know this—I don't and never did want more than the next man—I just don't want to be pushed around. I never took it."⁶⁷

Writing from a black, radical, and masculinist position, Wells believed that racial segregation—and especially segregation in prison labor—was the undoing of the prison system and the key to its continued social inequality. This was most pronounced when he was returned to Folsom in 1941 for the theft of a car battery, after spending several unsuccessful months in Los Angeles looking for work.

Wells asked for assignment to a road camp, "where I could do a job and be treated decent."⁶⁸ At Folsom, Wells saw learning a trade as the key to his social redemption, but this path toward social and economic – if not political – citizenship was denied him less by Warden Plummer, whom Wells portrayed as a reasonable (if still racist) Warden, but rather by white prisoners, con bosses, and shop supervisors. Wells requested being assigned to the welding shop, but was told by Plummer that "it would

⁶⁵ Theodore Hamm, *Rebel and a Cause: Caryl Chessman and the Politics of the Death Penalty in Postwar California, 1948—1974* (Berkeley: University of California Press, 2001), 95—106.

⁶⁶ Wesley Robert Wells, *My Name is Wesley Robert Wells*, Foreword by Buddy Green (San Francisco: State Defense Committee for Wesley Robert Wells, 1951), 6.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, 13.

disrupt work to bring a Negro down there. They're all white workers." Wells received the same response from the Trade Department – no blacks wanted. Prison officials conceded to white supremacist prisoners (and officials needed little convincing) that industrial wartime labor should remain among the benefits of white skin privilege. The white workers' protests were the equivalent of the hate strikes that plagued war industries in these years, and maintained a racially and sexually segmented labor market, efforts to which Warden Plummer was all too willing to concede.⁶⁹ After being denied access to a job whereby he could learn a trade, Wells was eventually assigned to the rock quarry, "making little ones out of big ones."⁷⁰ Wells' campaign against his execution and for his rights were firmly based in a critique of racial dominance and class exploitation in California. He hated being called a "black skunk" by Warden Larkin, or being denigrated by white prisoners or white guards. "I was young and I held my head up. I didn't take no stuff from prisoner, stoolie, or guard. As a result, I got it bad. I got the strap, the rubber hose, the club, the curses."⁷¹ Like other black prisoners,

⁶⁹ On World War II hate strikes and racially segmented labor markets, see George Lipsitz, *Rainbow at Midnight*, Judy Yung, *Unbound Feet*, Marilyn S. Johnson, *The Second Gold Rush: Oakland and the East Bay in World War II*, Kevin Starr, *Embattled Dreams: California in War and Peace, 1940–1950* (New York: Oxford University Press, 2002). Also, Chester Himes, *If He Hollers Let Him Go* (New York: Thunder's Mouth Press, 2002 edition).

⁷⁰ Wells, *My Name is Wesley Robert Wells*, 14.

⁷¹ *Ibid.*, 6. A prisoner named Wells was apparently going to be transferred to San Quentin during the 1943 Folsom investigation. But the prison chaplain, Reverend McKerrigher, and psychiatrist, Dr. Schmidt, testified that he and others transferred would "raise hell" at San Quentin, because they were so mean. Wells, whom they constantly referred to as a "colored fellow" was refusing to work. A prisoner named Parker also refused to do the work that he was assigned to, and both had sworn to be uncooperative. One of the investigators asked if they could put the Folsom transfers "up on the shelf." He said they could, but that they could still raise hell there, that they would start booing in the mess hall, and then the rest of the prisoners would join in. "[I]f three or four of those men get in the mess hall and start booing there will be trouble." See Dr David G. Schmidt testimony, Psychiatrist at San Quentin, Volume VI: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, 1175-1199, esp. 1191. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:961.

Wells was effectively made into a recalcitrant prisoner through racist treatment. When he responded to racial insult and degradation, he responded with protest. And these protests were read as recalcitrance, and punished accordingly.

Nevertheless, there were venues in which black, white, and brown California prisoners worked together in the war years, though they seemed to have been more common at the medium security San Quentin than at the maximum security Folsom. Such was the case with printing ration books at San Quentin, and given wartime agricultural labor shortages, in the privileged Harvest Camps outside the walls – though how space, race, and privilege were organized in harvest camps remains ambiguous. Wells and other black and Mexican inmates, along with whites, were assigned to harvest camps, where they earned money and good time toward release. In Wells' words, "For a whole year I stayed out of trouble. I had a job and I was doing something that counted."⁷² According to Wells, this sort of purposeful labor and dignified treatment as a man was precisely what was necessary for his success in and beyond the prison. He later wrote, "all I ask is a chance to earn an honest living when I am free," but regretted that such was not the case in his society.⁷³

Nevertheless, one may wonder why there was relatively little formal segregation for prisoners' labor in California. In his 1940 monograph *The Legal Status of the Negro*, Charles S. Mangum, Jr., suggested that there was no formal segregation in prisons in parts of the country where there were relatively few African Americans. But in southern and border states, prisoners were segregated by race as a matter of statute or

⁷² Wells, *My Name is Wesley Robert Wells*, 14.

⁷³ *Ibid*, 17.

a matter of penal policy.⁷⁴ Indeed, it appears that racial segregation at labor in California prisons grew more from informal practice than from statute. Such was the case when white prisoners refused to let Wesley Robert Wells work in the Welding or Trade shops, or when black prisoners were threatened for trying to eat in the white section of the dining hall.

In this informal but still powerful organization of race, space, and labor, whereby black, white, and Mexican prisoners might work together in the quarry, but not eat together in the dining hall, the California Prison System unwittingly reversed the conditions of racial segregation and racial formation in California's other urban environments. In his 1993 *Black San Francisco*, Albert S. Broussard describes that before 1940 San Francisco was a relatively racially tolerant city – for African Americans, if not for Chinese Americans. The basis for his claim is that there was no explicit or formal racial segregation in San Francisco in either residential housing or in entertainment. However, San Francisco blacks were firmly trapped within a racially stratified labor market, and this was the foundation of material inequality and persistent racism in California, despite its self-consciously and self-congratulatory “liberal” racial attitudes.⁷⁵

In contrast, conditions at Folsom inverted the mode of racial hierarchy in other parts of California. In San Francisco, prior to the Second World War there was no

⁷⁴ Charles S. Mangum, Jr., *The Legal Status of the Negro* (Chapel Hill: University of North Carolina Press, 1940), 223, 230-1.

⁷⁵ Albert S. Broussard, *Black San Francisco: The Struggle for Racial Equality in the West, 1900–1954* (Lawrence: University Press of Kansas, 1993), and "In Search of the Promised Land: African American Migration to San Francisco, 1900-1945," in *Seeking El Dorado: African Americans in California*, De Graff, Mulroy, and Taylor, eds. (Los Angeles: The Autry Museum of Western Heritage, 2001).

formal segregation of African Americans in entertainment venues, and only informal segregation in housing markets. On the other hand, racially segmented labor markets constituted the foundation of black subordination and white supremacy. The opposite was the case at Folsom: there was indeed semi-formal segregation of black prisoners in housing, eating in the cafeteria, and in entertainment, but because of the high numbers of white prisoners throughout the prison system, and because of the punitive nature of incarceration at Folsom (as the maximum security prison for California) white prisoners were forced to labor in the worst positions of the prison – alongside black and Mexican prisoners. Thus the “foundation” of racial segregation in punishment at Folsom was not in labor, which only occupied prisoners for a relatively small number of hours per week in their total incarcerated lives, but rather in other sites of life. This also meshes to a good degree with Barbara Jeanne Yaley’s assessment that in a mature capitalist political economy, and particularly in a period of labor surplus, labor extraction was no longer the driving force behind punishment. Instead, labor assignment served as a kind of punishment or reward within the prison, more than it was a profit-driven activity. With the declining disciplinary and economic significance of prison labor in the West and the Northeast, it could become a more racially “equitable” site in Folsom, even if that equity was one of downward leveling of recalcitrant and violent whites rather than the raising of African Americans as potentially redeemable.

Instead, black prisoners were fully segregated in dining halls and in entertainment, while Mexican and Asian prisoners coexisted uneasily with white prisoners. By their placement in the white dining area, Mexicans seemed to be defined

vaguely as “not-black,” though certainly not white, either, judging from the “kicks” – the protests – that Mexican inmates made against their second class treatment.⁷⁶

In every case, labor assignment to privileged or denigrated positions in California prisons offered or denied a sense of self-control, and expressed either an officially-sponsored sense of patriarchal masculinity, or a working class, oppositional sense of masculinity that grew out of the “con ethic,” and prided itself on opposing prison administrators and taking control of oneself by opposing the powerful state forces that surrounded them. Yet black, Mexican, and Asian American prisoners were rarely offered the redemptive opportunities and masculinity that obedient white prisoners might enjoy.

Texas Prison Labor: Agricultural Production, Universal Degradation, and Oppositional Practices

In the California prison system, labor assignment mimicked the race-blind coercive meritocracy through which American society and liberal capitalism were supposed to function. But its deep racism offered a more accurate portrayal of American culture than did the race-blind coercive meritocracy it purported to represent. In contrast, labor assignments in Texas prisons were singularly geared toward self-sustaining agricultural production, and were only secondarily rationalized as part of a meritocratic and redemptive coercive system. Though labor in Texas prisons was also justified through an ideology of obedience and upward mobility, this was clearly

⁷⁶ William J. Ryan Testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, 650-54. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

subordinated to the economics of farm production and the desire to maintain low costs to the state. As Texas's iconic prison General Manager Lee Simmons' told inmates at an introductory meeting, he would run the prison first and foremost "from a business standpoint."⁷⁷ In addition, Simmons set in motion what he called a "live at home" policy, whereby prisoners would produce as much of the food they ate and the clothes they wore as possible.

Following statute set in 1909, the prison system was racially divided, among black, white, and Mexican inmates, and agricultural units in the system reflected this racial division. Prisoners of all races worked in agricultural labor – the economic and disciplinary foundation of punishment in Texas. But the most highly esteemed industrial jobs at the Huntsville Walls unit, or at the State Farm Industries unit, were offered to white inmates only, and this was a process whose roots dated back to the 1880s.⁷⁸ The prison's coercive meritocracy, whereby good behavior was rewarded with promotion and disobedience punished with demotion, was undermined by conditions of racism and personal desire for respect and labor control by individual guards.⁷⁹

⁷⁷ "Adress (sic) of Lee Simmons, General Manager of the Texas Prison System, To Inmates of Huntsville Prison on Tuesday, April 15, 1930, at 12:30 P.M." TSLAC, Governor Moody Records, Box 1984/024-45.

⁷⁸ Robert Reys Perkinson dates the racial stratification of privileged white industrial labor and black and Mexican agricultural labor in the Texas Prison System to the 1880s. "The Birth of the Texas Prison Empire, 1865—1915," (Ph.D. Dissertation, Yale University, 2001).

⁷⁹ These two positions – of idealized reformist institutions versus the brutal and racist reality of punishment – cannot be understood as inimical to each other, or subject to an analysis whereby prisons might finally be reformed by proper application of progressive ideals. This is the position prison reformers have taken for as long as there have been prisons. Rather, the "contradictions" of incarceration are both integral and systemic. They are a part of the "dialectic of enlightenment" that is carceral punishment, the wedding of reformist conscience and hard-nosed convenience that are inescapably part of the same social formation. While this is a Foucauldian argument that examines the "meta" of punishment, I acknowledge that it doesn't pay attention to the real and sincere differences among elite reformers and working class guards, instead examining the effects of their conflicts, and uncovering the

According to official progressive ideologies, movement from farm to farm or from one labor assignment to another in the Texas Prison System became part of promotion or demotion, according to behavior and evidence of reform. Like California, Texas prison officials hoped to structure their prison according to a progressive ladder of upward mobility for obedience and downward assignment for recalcitrance, what I have called a coercive meritocracy. But significant differences remained between the two systems. Assignment to road, forest, and harvest camps distant from the central Folsom and San Quentin institutions signaled the highest points of achievement and redemption in California. But in Texas, the best opportunities (at least according to official ideologies) came with assignment to industrial jobs at the central institutions at Huntsville, or at the aptly-named Central State Farm, where it was believed that prisoners learned skills useful upon release. The most punitive assignments in Texas were on the numerous farms scattered in the eastern part of the state, though these, too, were supposedly structured by redemptive and punitive possibilities. The Prison Industries Reorganization Administration explained the logic behind various assignments in the prison system:

The Board has adopted a policy of promotion from unit to unit on the basis of work and conduct record. For example, men assigned to Retrieve Farm as intermediate prospects for rehabilitation can work up to camp No. 2 at Harlem or Camp No. 2 at Central; men from Harlem or Central can be promoted to industrial jobs at the Walls (or Central Farms when industries are developed there). Farm jobs are considered hardest, and it is felt that shop assignments should only be received after men have taken their turns in the fields.

broader process that their conflicts mask. As in other aspects of this dissertation, I hope to analyze the prison systems from both these levels.

Conversely, men assigned to the units which enjoy greater privileges can be demoted for cause and transferred back to a more restricted unit.⁸⁰

But the racial limits of this order were painfully clear. As I indicated in Chapter 1, the 1936 classification program for male prisoners explicitly prioritized and recognized difference among and within white prisoners, understanding internal differentiation between young and old, recalcitrant and redeemable white prisoners. Only years later were black and Mexican prisoners offered the benefit of these distinctions separating the violent offenders from the nonviolent, after the entire white population had been so differentiated. By the World War II years, the prison system was in such state that the New Deal order and the Progressive ideals liberal-inclined officials desired fell by the wayside.

Furthermore, it is hard to know how often prisoners really were demoted or promoted from one unit to another based on their behavior. Evidence suggests that transfer was not the common way to deal with poor or positive behavior, and prisoners were commonly punished for insubordination or laziness without any transfer. Rather, when prisoners worked too slowly or when guards felt disrespected, they treated it as a problem of labor control more than they did as a threat to the system, or to inmates' progress toward rehabilitation. In December 1937, Joel Denley, a black prisoner at the Clemens Farm Camp 1, was made to "Stand on the barrel" for 3 hours as punishment for "laziness." In August 1938, while back at Clemens after a time spent at Huntsville, he was issued whipping order #2712 "for 20 lashes for [being] lazy and stubborn." The

⁸⁰ Prison Industries Reorganization Administration, *The Prison Labor Problem In Texas: A Survey by the Prison Industries Reorganization Administration*, 32-33. (Hereafter PIRA).

whipping order was recorded as “executed in full,” but he was not transferred for this bad behavior.⁸¹ Prison documents suggest that agricultural labor needs were more important than penological or rehabilitative priorities in the Texas Prison System. One State Farm Manager wrote to his supervisors that “[Sugar] Cane season is fastly (sic) approaching and I would appreciate some more negroes if you can possibly let me have them.”⁸² Seasonal agricultural cycles and markets set the pace of life and the distribution of labor in Texas prisons – and especially for the black prisoners who disproportionately worked in sugarcane and in the worst assignments. Select white prisoners could find themselves in the privileged industrial jobs. Though these were relatively few in number, they represented the apex of labor assignments in the prison system.

Industrial Programs

Despite nearly a decade’s worth of attempts at industrialization within the prison system between 1930 and 1940, the prison still fell short of its modernizing goals. Nevertheless, prison officials boasted loudly of the few industrial ventures at the Texas prison system, and reformist board members consistently sought other industrial and vocational programs. Because they already had a highly spatially-segregated prison system through which to divide prisoners into types, further industrialization of the prison system, providing retraining in cutting-edge technologies and labor skills, would

⁸¹ Convict Record and Conduct Register on Joel L. Denley, #84690. TSLAC, Convict Record Book Domain 83261-85270, archived as 1998/038-23, and Conduct Register domain 79301-84740, archived as 1998/038-167.

⁸² Farm Manager's Report, TSLAC, Box 1984/024-45. “negroes” is in lower case in the original.

prove the full modernization of the Texas Prison System. However, this industrial modernity remained on the distant horizon for the system overall, and for black and Mexican prisoners especially, and bespoke the inherent contradictions in vocational training at industrial labor for prison inmates. This contradiction remains to the present day.

In 1936, six of the ten "industrial" programs in the Texas prison system were based in Huntsville. The others were located at the Central Farm, which was in the process of expanding as another main unit in the System. The industrial units at the Central State Farm remained fully and formally for whites only until 1968, when the Texas Prison System was desegregated.⁸³

The first of these was the Machine Shop. In 1936 the Machine Shop at Huntsville had eighty four prison workers directed by a Chief Mechanical Engineer and two assistants. In addition to the main machine shop, there were seven other shops: a stove shop; a tin shop; a foundry; a plumbing shop; an electrical shop; and a garage. The power plant and the ice plant also operated under the purview of the machine shop.⁸⁴

A second shop was the shoe shop, which in 1935 had seventy five prisoners at work. The construction shop had about thirty five prisoners, which included the painting department, the carpenter shop, the blacksmith and the woodworking shop. Woodworkers built wagons and furniture for the prison system (and later, for other state

⁸³ Don Hudson, "The Texas Department of Criminal Justice's Central Unit Main Building and its Historical Significance: A Brief Study: The Evolution of Texas Penology," (Texas Historical Commission, Texas Department of Criminal Justice, 2001), 13.

⁸⁴ PIRA, *The Prison Labor Problem In Texas*, 9.

institutions, like schools). The Print Shop did printing for the prison, producing such items as the Annual Reports and other documents used within the prison system, and also made envelopes for mailing license plates. The License Plate Plant set eighty prisoners to work for about 8 months of the year. The Mattress shop set two prisoners to work, though that number would increase greatly during WWII, when the mattress shop expanded significantly. Fifty five women prisoners worked in the clothing shop, making clothes for all prisoners, as well as their discharge suits.⁸⁵

From available information, it seems that labor and housing were segregated at Huntsville, just as they were throughout the prison system. However, there are few references to how labor and space were organized racially at Huntsville; apparently it was so obvious as to go without saying. Nonetheless, remaining photos from Huntsville show that prisoners in the “rock crushing plant” (actually a row of prisoners sitting on the ground breaking rocks with hand-held hammers) and the wood-chopping crews were all black prisoners.⁸⁶ Furthermore, the boiler room at the Walls seemed to be a black-only job. This was no surprise, given that it would have been sweltering, dirty work.⁸⁷

Construction crews were understood by Texas prison authorities to be a beneficial training program. The General Manager's Report in 1937 explained that "construction work has been a beneficial vocational outlet for the abundant supply of labor; and it has assisted materially in the establishment of vocational training, an

⁸⁵ PIRA, *The Prison Labor Problem In Texas*, 10-11.

⁸⁶ For the image of the “rock crushing plant,” see Simmons, *Assignment Huntsville*, between pp 112-113.

⁸⁷ The *Echo*, August 1933, Vol 5 No 10, p 6, col 3, 4, TSLAC microfilm Reel 1 (June 1933- December 1948).

integral part of our educational program."⁸⁸ But the vocational training opportunities clearly remained an ancillary goal to the financial health of the prison itself. It seems more that prisoners were set to work at necessary tasks (building expansion or repair, making inmates' clothing, making bricks for new structures, cooking for the lines or canning food for inmate consumption), and these activities were then labeled as vocational programs. Charlotte A. Teagle, Member of the Texas Prison Board and Chairman of the Welfare Committee, was clearly pleased by "progress" made in the vocational training of prison cooks. In addition to the other vocational programs she described in a 240-page paean to Texas penal progress, she explained that aspiring inmate chefs learned their craft from the U. S. Army Cook Manual. One Farm Steward wrote to a member of the Prison Board that "cooking is a fine art and embraces the preparation of foods, sanitation, serving, balanced diets, methods of cooks, food values, the preservation of calorie content, and the proper handling of food."⁸⁹ Army privates and prison inmates would have been surprised to learn their meals were, indeed, fine art. Nevertheless, cooking was one of the few "vocational" courses offered to a variety of prisoners, regardless of race or the farm they were on. This should come as no surprise: every farm needed cooks, and this allowed for vocational training to overlap with the system's preexisting custodial needs.

Central State Prison Farm, formerly known as the Imperial Farm, housed approximately eight hundred mostly first-term prisoners on 5200 acres of land.

⁸⁸ Quoted by Charlotte A. Teagle, *History of the Welfare Activities of the Texas Prison Board, 1927—1940*, 110. TSLAC, Texas Department of Corrections Records, Box 1998/038-127.

⁸⁹ Teagle, *History of Welfare Activities of the Texas Prison Board*, 124.

Managers there attempted to develop industrial labor capacities to aid in the functioning of the prison system, so that the system would not need to buy as many manufactured goods as they had previously. When administrators actively pursued this in 1930, they chose the Imperial Farm because of its proximity to Houston, and at the same time, changed its name to the Central State Farm.⁹⁰ By 1938 there were 4200 acres in cultivation, where prisoners grew cotton, corn, feedstuffs and vegetables. Central State Farm Manager Captain Flanagan described the organization of this unit:

There are three camps of white men and one of negroes on this farm; our agricultural units are Camps No. 1 and No. 2, and part of No. 4; our dairy unit is Camp No. 3; here we have a small group of trustees housed; No. 4 is our industrial unit and is called "STATE FARM INDUSTRIES."⁹¹

Camp Number One was for young black prisoners, while Camps Two, Three, and Four, housed young white prisoners. Camp Four was also known occasionally called the New Unit, or the Industrial Unit. This housed 350 inmates operating canning plant, where a "large ice plant and a modern Diesel-equipped power plant here furnishes trade training for a number of Central inmates."⁹² The canning plant was seasonal work only; prisoners almost certainly worked in agriculture for the rest of the year. The canning and meatpacking plants were both located at the Central Farm. They both produced and prepared foods for the rest of the prison system. Though this isn't conclusive, it does seem that at least the majority of the butchering for the system went through the Central Farm, and that individual farms seemingly did not butcher their own hogs or cattle. The

⁹⁰ Hudson, "Central Unit Main Building and its Historical Significance," 7.

⁹¹ *Thirty Minutes Behind the Walls*, Program 17. July 13, 1938.

⁹² *Official Souvenir Program of the 8th Annual Prison Rodeo, 1938*, 55. TSLAC, Box 1998/038-404, Folder "Rodeo Program 1939." Note that this folder is mislabeled.

canning plant used sixty workers; the meatpacking plant used thirty.⁹³ "For ten hours a day our men work hard, but they are well fed and clothed, and eventually we can say that they are well housed; as we will soon have under construction at Camp No. 1 a modern dormitory building which will replace two of our wooden, fire-trap structures that have outlived their usefulness."⁹⁴ In describing the improvement of the prison's physical structures, prison officials convinced themselves (and tried to convince others) that Texas prisons were truly reformatory and progressive institutions.⁹⁵ The discursive connection between industrialized labor at the Central Farm and the modernization of the Texas prison system continues to the present. An author for the Texas Historic Commission and the Texas Department of Criminal Justice opined that the day "industrialization [came] to the Imperial State Farm, Texas penology entered the modern era."⁹⁶ For Southern prisons no less than Southern boosters, industry equaled modernity.

Other productive industrial processes were described on *Thirty Minutes Behind the Walls*, the prison radio program designed as an innovative public relations tool for the prison system, such as the massive license plate plant at Huntsville. In 1940 the plant consumed 1,511,860 pounds of steel, and 16,490 gallons of paint, and 7,275 pounds of other ink. Inmate workers manufactured an average of thirty thousand plates per day, totaling 3,455,700 for the year. Note, however, the ways that B. R. Mann, the

⁹³ PIRA, *The Prison Labor Problem In Texas*, 11.

⁹⁴ *Thirty Minutes Behind the Walls*, Program 17. July 13 1938.

⁹⁵ *Official Souvenir Program of the 8th Annual Prison Rodeo, 1938*, 55.

⁹⁶ Hudson, "Central Unit Main Building and its Historical Significance," 6-7.

license plate bookkeeper, effectively fetishized inmates' labor by using the passive voice in his descriptions. According to Mann,

the plates are cut from sheets of steel thirty-five and one half by ninety-two inches, each sheet making forty-two plates. The holes are then punched by machines, and the numbers are stamped on by the embossing presses. The plates are then dipped in the enamel and hung on conveyor racks, which carry them through a large oven for baking at a temperature of two hundred degrees. After baking the plates in the oven for one hour and fifteen minutes, the numerals are then inked by machine, and the plates travel back through the oven on another conveyor, after which they are packed and made ready for shipment.⁹⁷

Despite the ideology of training inmates' skills upon release, it seems clear enough that machines did more labor than did workers. The prisoners who did work the presses could certainly learn skills applicable to later wartime industries, but there wouldn't be too many prisoners who had the opportunity to operate the press. Furthermore, in the lean depression years, few could have anticipated the industrial development to come in the future. It was more a matter a faith than of certainty.

This was the case because the Texas prison system, despite its vocal proclamations of industrial ventures such as the license plate plant, remained almost entirely an agricultural prison. Yet this, too, posed difficulties, because fewer and fewer prisoners had any agricultural experience. Indeed, prison inmates would increasingly hail from urban, rather than rural, counties. In the 1938 *Annual Report*, General Manager O.J.S. Ellingson explained the lack of profits and difficulty in managing the prison by recourse to the changing prison population. They could no longer rely as thoroughly on prisoners' skills as agricultural workers. According to Ellingson in 1912,

⁹⁷ *Thirty Minutes Behind the Walls*, Program 93, Dec 27, 1939.

the prison population was 49 percent Negro, 39 percent White, and 12 percent Mexican, and that of the entire prison population, 23 percent had been farmers. But by 1938, he attested, White prisoners were 56 percent of the prison population, 33 percent were Negro, and 11 percent were Mexican. Of these, he continued, only 7 percent were farmers. Thus, the more recent cohort of prisoners were more frequently white, came from urban or semi-urban locales, and needed to be taught to farm, to work in fields, pick cotton and truck crops. "[P]ractically all [the] prisoners have to be taught how to cultivate the land as 93 per cent," he lamented, "have not had previous farming experience."⁹⁸ This demographic change also attested to the new meaning of incarceration during following prohibition and the depression, when larger number of whites were incarcerated for property crimes, and when extracting labor from black workers or preventing their migration and compelling their labor as sharecroppers (as in the convict lease period) was no longer the driving force behind the criminal justice.⁹⁹

In the same *Annual Report*, General Manager Ellingson also explained the systematic racism in assignments to labor, which positioned agriculture and work for blacks and Mexicans, while protecting industrial labor for white prisoners. But Ellingson explained this in terms of predilection, rather than enforced difference and hierarchy. "[A] greater per cent (sic) of the Negroes and Mexicans are content to do farming than the whites," who seemingly demanded other labor opportunities than

⁹⁸ *Annual Report of the Texas Prison Board, 1938*, 19.

⁹⁹ David M. Oshinsky, *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996), 163-4, Lichenstein, *Twice the Work of Free Labor*.

degraded farming.¹⁰⁰ Yet we can be sure that black and Mexican prisoners were far from content with farming, and would have much preferred more honored industrial labor.

Yet that was rarely the case, and it's doubtful that Ellingson ever asked any black or Mexican inmates their preference. Ramsey Farm, the largest in the Texas prison system, was consistently a Negro, or Negro and Mexican Farm (though housed in different camps), throughout the 1930s and 40s. The Ramsey Farm had itself been incorporated into the prison system in 1912, when William F. Ramsey, a member of the Texas Supreme Court, was head of the Texas Prison Board. Ramsey oversaw the purchase of the 8,000 acre farm, which was a phenomenal boondoggle for Basset Blakely, the farm's owner, who nearly trebled his money on the farm he'd bought just two years earlier.¹⁰¹

In 1936, prisoners were supposed to be limited to working 10 hours per day, not including the hour they were supposed to receive for lunch. "Exceptions" to the supposed 10 hour day were permissible (and indeed, widespread) when managers determined that overtime work was "necessary and essential" to the functioning of the institution – as when there was a lot of cotton to be picked, or when sugarcane was ready for cutting and the prices were right. For every hour of overtime that prisoners worked, they would "earn" two hours off of their sentences. Thus, prisoners were paid overtime not in wages for their labor, but literally in time off of their sentences, a

¹⁰⁰ *Annual Report of the Texas Prison Board, 1938*, 19.

¹⁰¹ Paul M. Lucko, "The Governor and the Bat: Prison Reform During the Oscar B. Colquitt Administration, 1911—1915," *Southwestern Historical Quarterly*, Vol. 106 No. 3, (Jan 2003): 396—417, esp. 405.

practice that spoke to the cash-poor nature of the Texas prison system. But even the time given was a stingy wage, a matter of hours, not days.

Investigators for the Prison Industries Reorganization Administration (PIRA) determined that work on farms was much more likely to extend beyond the 10 hour day than it was in industrial projects. Thus, prisoners on farms worked longer hours than did industrial workers in Huntsville's shops.¹⁰² This was yet another way in which racial identity and labor assignment materially affected the bodies of prisoners and their conditions of life.

With such beneficial goals in mind, PIRA officials, like progressives on the Texas Prison Board, favored expanding the industrial capacities of the Texas Prison System. But they suggested that officials not use labor saving machinery in industries such as textile production for prisoners. "Since labor cost does not enter into the problem of prison production, we are recommending that non-automatic machinery be used."¹⁰³

Instead, they reasoned that very low tech solutions would be best, since they would maximize the labor and the time actually consumed in the productive process. In coming to this determination, PIRA bureaucrats actually closely followed the logic that many "less progressive" Texans, such as whip-advocate and General Manager Lee Simmons, held dear. Labor was to be productive, but just as important, it should keep

¹⁰² PIRA, *The Prison Labor Problem In Texas*, 11-12. Clemmer confirmed a similar trend in his more-aesthetically modern prison. Inmates working in the quarry were able to loaf approximately 5 to 10 percent of the time, while workers in the "important shops" were idle between 50 and 60 percent of the time. *The Prison Community*, 275. Thus prisoners in the socially-degraded jobs worked longer and harder hours than their peers in more privileged positions.

¹⁰³ PIRA, *The Prison Labor Problem In Texas*, 18.

prisoners busy during the day and exhausted at night. This was the fundamental contradiction in the idea of "training" prisoners in modern, industrial labor. Had prisoners actually been engaged in vocational training, they ought to have used recently developed labor saving machinery. But the goal of actual vocational training was neither economically feasible nor desirable from the managerial perspective of keeping prisoners busy. Recently designed equipment was both costly and in constant evolution, in order to increase output relative to workers' wages. And saving labor was the last thing on prison officials' minds, who wanted to make as much work as they possibly could for their wards. This was a contradiction that they could never reconcile, even as they urged for more prisoners working in industries, fewer in agriculture, and expanded vocational training so that inmates would leave the prison with a skill, and be less likely to return.¹⁰⁴

Prison Farms

According to numerous scholars of southern prison systems, there was little qualitative change in the nature of penal life between the late nineteenth and the mid-twentieth century.¹⁰⁵ The convict lease system in Texas was abolished in the progressive reforms around the turn of the century. When intensive humanitarian scandals over brutality against white inmates coupled with falling labor prices for free

¹⁰⁴ PIRA, *The Prison Labor Problem In Texas*, esp, 19—22.

¹⁰⁵ See, for example Oshinsky, *Worse than Slavery*, Matthew J. Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866—1928* (Columbia: University of South Carolina Press, 1996); Paul Lucko, "Prison Farms, Walls, and Society: Punishment and Politics in Texas, 1848—1910," (Ph.D. dissertation, University of Texas at Austin, 1999).

workers, state officials determined that the convict lease system was no longer viable. Though post-lease prisoners worked for the state rather than private entrepreneurs, the conditions were no less brutal and the pervasive racism of state prison systems did not diminish, but rather intensified in new more highly refined racial formations of more thorough, more scientifically-applied white supremacy of which classification and differing labor assignment were two parts.¹⁰⁶ There was supposed to be greater oversight of prison conditions by a putatively paternalist state, but in reality the places of southern punishment in the first three quarters of the twentieth century could be characterized as small fiefdoms in which there was little oversight and in which guards operated with free reign, answering only to their wardens, who asked for little other than unswerving obedience to their orders and that there be little publicity about brutality or escapes.¹⁰⁷ This condition existed through at least the 1960s and the beginnings of judicial oversight of Southern prisons. And even then, prison administrators met court-ordered reforms with what two Texas prison scholars identify as “defiance, denial, and deceit.”¹⁰⁸

Texas’ central prison unit was located at Huntsville, and was known as “The Walls.” It was the sole institution that would be widely recognized as a penitentiary; its tall brick walls and imposing edifice was starkly different from the prison farms of the

¹⁰⁶ On differentiation among prisoners as a Progressive Era innovation in prison management and white supremacy, see Perkinson, “The Birth of the Texas Prison Empire.”

¹⁰⁷ Steve J. Martin and Sheldon Ekland-Olson make this argument in *Texas Prisons: The Walls Came Tumbling Down* (Austin: Texas Monthly Press, 1987). While they argue that late 20th century federal judicial oversight took halting steps to remedy this, journalist Daniel Bergner’s assessment Louisiana’s Angola penitentiary is much less sanguine. See *God of the Rodeo: The Search for Hope, faith, and a Six-Second Ride in Louisiana’s Angola Prison* (New York: Crown Publishers, 1998). On Mississippi’s Parchman Farm, see Oshinsky, *Worse than Slavery*, 140, 150.

¹⁰⁸ Martin and Ekland-Olson, 2.

rest of the system. In the early twentieth century, the Texas Prison System annexed numerous satellite farms on which to work its growing prisoner population. The guiding penal philosophy was to make prisoners pay their way, and this philosophy has itself changed little since the fiscal and philosophical poverty of the Redemption Era governments of the New South. Louisiana's Angola penitentiary, much like Mississippi's Parchman Farm, was a centralized, but expansive farm on which prisoners were to labor and produce as much of their own food, and produce as much for the state as possible. In contrast to these institutions, the Texas Prison System never centralized, despite efforts to do so in the 1920s when civic groups such as League of Women's Voters and the Women's Christian Temperance Union shifted their focus to prisoners' wellbeing, and exerted pressure on Governor Moody and the Texas Legislature to reform the prison system.¹⁰⁹ Despite these efforts, which reformed the uppermost levels of prison administration but changed little on the ground, the Texas Prison System consisted of nearly a dozen farms scattered throughout East Texas.

Prisoners on farms worked, in the old phrase, from "can see to can't," from sun up to sun down. Seasonal and daily farming imperatives set the timing of the day rather than the timetable of clocks, bells, and whistles in less agriculturally-oriented prisons.¹¹⁰

¹⁰⁹ Paul M. Lucko, "A Missed Opportunity: Texas Prison Reform during the Dan Moody Administration, 1927-1931," *Southwestern Historical Quarterly* 96, (July 1992); and Lucko, "TEXAS COMMITTEE ON PRISONS AND PRISON LABOR," in *The Handbook of Texas Online*, <<http://www.tsha.utexas.edu/handbook/online/articles/view/TT/mdtva.html>> Accessed Wed May 12 14:25:27 US/Central 2004 . According to Perkinson, conservative response to a series of strikes and mutinies in Texas in 1929 (part of a nationwide series of prison uprisings) doomed this reformist effort, and prompted the slavery-longing paternalism of Lee Simmons.

¹¹⁰ To be sure, this is not to suggest that the timing of Southern carceral regimes were any more "natural" and less "cultural" than the more strictly modernist time-scheme. See E. P. Thompson's classic essay "Time, Work Discipline, and Industrial Capitalism," *Past and Present*, 38, (1967): 56-97, for a discussion

Many Texas prisoners lived in dorms that reformers likened to the decrepit holds of ships, the overcrowding of which led to little guard oversight. According to reformist investigations and literature of the 1940s, prisoners' despair and maltreatment, intra-prisoner violence, and conditions of faulty guard surveillance led to new violence in the bunk houses, to what they called sexual degeneracy, and to self-mutilation.

At work in the fields, prisoners were driven incredibly hard, with little or no rest. One prisoner reflected that prisoners would be whipped for working too slowly, or for taking a break. They could be whipped for not letting a mule take a rest, but they couldn't rest themselves. They worked long days outside under pounding sun, oppressive heat, in cold or rain, as crops and market dictated. Though the heat and dehydration was a constant threat to life, one black prisoner told folklorist Bruce Jackson about the bitter cold: "Stand out in the field and eat your dinner. Be raining hard...like a cow pissing on a flint rock, wash the beans out a your plate. You got to keep working. Rain didn't stop you, cold didn't stop you." Prisoners ran to and from work, miles in the morning, miles back to sleep.¹¹¹ They were often too tired even to eat.

While specific information on daily life and labor on Texas prison farms has been generally lost to the historical record, an October 20, 1927 letter from Ramsey

of the imposition of capitalist work rhythms and workers battles over time. Thompson does risk making non-industrial timing schemes somewhat romantic, in the face of clearly alienating and clearly repressive bourgeois time discipline.

¹¹¹ Bruce Jackson, *Wake Up Dead Man: Afro-American Worksongs from Texas Prisons* (Cambridge, MA: Harvard University Press, 1972), 1.

Farm Manager to General Manager of Texas Prison System described the distribution of labor at Ramsey.

Far and away the largest number of prisoners at Ramsey Farm in October worked picking cotton. They were overseen by white prison guards on horseback, known as picket bosses, or just as “boss” to prisoners. The bosses were armed with shotguns, pistols, and rifles, as well as whips. Three hundred and twenty three prisoners, out of a total of five hundred sixty seven, picked some 119 bales of cotton in the week of October 8-14, 1927, while twenty four prisoners ginned 145 bales. Corn was getting heavy in the fields in this fall week, and twenty seven prisoners gathered 7617 bushels, about a third of the corn they had thus far gathered in the season. All of this was hard, hard labor. As Ernest Williams and a group of inmates sang from the Central Farm in 1933,

You ought to come on the river in nineteen-four,
You could find a dead man on every turn row.¹¹²

While the majority of imprisoned workers at Ramsey picked cotton or corn in this time of year, twenty two others worked full time as mule skimmers, hauling cotton, corn, and other materials from one part of the prison farm to another. Nine building tenders enforced order in the different camps and the various wings of different tanks. Four men tended hogs, four others chickens, seven were dairy workers and two more tended the stock. Nine worked in the Ramsey Farm's version of a hospital under four hospital stewards; there 12 each in the laundry and in the kitchens, and three each

¹¹² Ernest Williams and Group, “Ain’t No More Cane on the Brazos,” recorded at the Central Farm, Sugarland, Texas, in December 1933. *Big Brazos: Texas Prison Recordings, 1933 and 1934* (Rounder Records, 2000).

worked at the Manager's and the Assistant Manager's residence. Five worked full time just repairing the cotton sacks that prisoners filled with cotton. Four tended the Guards' Quarters and five more were the Guards' waiters, while there were five head waiters for the rest of the prisoners. Four were full time blacksmiths, sharpening and fixing tools that were likely damaged with alarming frequency; 10 loaded cotton and cotton seed at the gin, and ten more tended the water wagons that delivered water to prisoners working in the fields. These were the “water boys” sung to and about in so many prisoners' worksongs. Other prisoners did work with obscure names – there were eleven lot men, thirteen Flunkies and Helpers, but also pump and power plant men, ox drivers, collar makers, mail wagon and commissary men, barbers, clothes patchers, messengers, a carpenter and a bookkeeper.¹¹³ It was, clearly, a fully functioning plantation, designed to be as fully a self-sufficient institution as possible.

Yet even so, there were not enough prisoners for the manager's liking, and changing labor needs dictated that as sugarcane ripened, they would need still more prisoners – and black prisoners were most desired – or the sugarcane would rot in the fields and the prison system would lose money.¹¹⁴ Agricultural cycles and markets set the pace of life and the distribution of labor in Texas prisons – and especially for the black prisoners who disproportionately worked in sugarcane and in the worst assignments.

There is little way to know how social life on the farm was organized from this report, or even how life was organized in terms of contact between prisoners on

¹¹³ Farm Manager's Report, TSLAC, Box 1984/024-45.

¹¹⁴ Ibid.

different farms with each other. Yet this is one of the few reports of its kind that remains in the archives. Nevertheless, Ramsey Farm did constitute a small world of its own, with hierarchies and antagonisms and affairs and tempers and joys. The last of these were meager and fleeting, to be sure, but are sure to exist where ever radically subordinated people make their homes.

Ironically, or perhaps because of their long experience confronting brutal treatment, black inmates have left some of the most powerful sources on conditions of labor in Southern prisons. They are sources which provide insight into incarceration in ways that few other prisoners in the North or the West were able to provide. While a historian might try to reconstruct the labor history of the Texas prison system through systematic analysis of acreages of cotton and pounds produced, these records fall short of the descriptive and analytical possibilities offered by prison worksongs, and thus I try to employ both sets of records for an understanding of labor conditions.¹¹⁵

Prison worksongs were a form of music that voiced elements of the African diaspora, a tradition of music that slaves sang in order to lighten their burden while at labor, or voice their suffering in bondage.¹¹⁶ Most importantly, worksongs allowed

¹¹⁵ Much of the discussion of prison worksongs draws from my previous essay “Beating the system: prison music and the politics of penal space,” in Alison Bashford and Carolyn Strange, eds. *Isolation: Places and Practices of Exclusion* (London: Routledge, 2003), 56—70.

¹¹⁶ See, for example, Lawrence W. Levine, *Black Culture and Black Consciousness: Afro-American Folk Thought from Slavery to Freedom* (New York: Oxford Press, 1978); Peter H. Wood, *Black Majority: Negroes in Colonial South Carolina from 1670 through the Stono Rebellion* (New York: W.W. Norton and Co., 1974); Frederick Douglass, *Narrative of the Life of Frederick Douglass, An American Slave, Written by Himself* (New York: Signet Books, 1968), 31—32. The music also maintained some historical connections with sea shanties sung by multi-racial sailors in the Atlantic world. Peter Linebaugh and Marcus Rediker have argued for the many connections between African slaves in the Americas and the North Atlantic proletariat in the early modern world. By the mid-twentieth century, when Alan Lomax and Bruce Jackson recorded prison work songs, they did so in an era when black southerners were

black prisoners a means of crafting a space of their own within isolating systems of punishment and labor. First of all, songs set the timing for work. Secondly, they made room for critique of guards. Jackson also made the tentative suggestion that worksongs helped to make the labor that prisoners perform their own; that it helped to wrest control of their incarceration from their keepers.¹¹⁷

Prisoners' worksongs voiced terrible lament through beautiful sound. Most of the songs were characterized by longing, want, and distance from loved ones and family. Prisoners lamented the duration of their imprisonment, often with tragic irony (My buddy got a hundred/ I got ninety nine/Now weren't I lucky/When I got my time...). Multiple cadences based on the driven timing of the axe or hammer, harmonies and intonations, and calls and responses all set prisoners' bodies in motion to the time of music. The songs were characterized by some degree of improvisation within the cadence of the work, and drew from many different previous songs and folk tales. Singers reworked received lyrics into new combinations, adding new ones and discarding others based on their feelings, the moment, or their sense of humor. The convicted black workers swinging axes or hoes performed worksongs for each other, for

increasingly mobile, through travels north and returning from their labors, as well as internationally. Numerous black southerners fought in Europe during the world wars, many listened to recorded music, and travels took them into numerous locales. It would be naive to think that the prison music recorded by either Lomax or Jackson existed as any sort of "pure" form of African music, as Lomax himself suggested. That the worksong "Skewball" was originally an Irish song about a racehorse lends credibility to Linebaugh and Rediker's thesis about the cultural interplay and exchange between the trans-Atlantic working class and New World slaves, while remaining firmly rooted in West African musical traditions. Furthermore, by forcibly relocating black prisoners into strictly segregated prison farms and camps, state officials redefined black culture as strictly and clearly black. On Skewball, see the liner notes to the Alan Lomax Collection Compact Disc *Don'tcha Hear Poor Mother Calling, Historical Recordings from Parchman Farm, 1947-48: Prison Songs, Volume Two* (Rounder Records, 1997). For Linebaugh and Rediker's work, see *The Many Headed Hydra: Sailors, Slaves, Commoners and the Hidden History of the Revolutionary Atlantic* (London and New York: Verso, 2000), esp. 166-167.

¹¹⁷ Jackson, 30-31.

the guards when they were nearby, and on very rare occasions, for recording machines. Their rhythms communicated timing for work, so that they labored in unison and cooperation, rather than under the suspicions and antagonisms that prisons so often yield.

Music formed a tense negotiation with the prison guards who were known for their racism and their brutality. Slowest prisoners – often the aged or the infirm – could be whipped for moving too slowly. Prison worksongs were a vital part of that negotiation, satisfying guards – almost lulling them into compliance – with the pace that prisoners wanted to work. Albert Race Sample, in his recollections of the Retrieve Farm in the Texas prison system, wrote of how the sound of music created a spatial envelope that drew guards inside, onto terrain that prisoners set through their music. Sample wrote: “Every axe hitting in rhythm. Boss Dead Eye sat on his horse contented, ‘When them ol’ niggahs is sangin, ever thang’s awright.’ With a shotgun laid across his arm, he listened as we sang and sang.”¹¹⁸

As a negotiation with guards, singing assured steady progress through the day without taxing the workers beyond possible physical endurance. But setting the pace of work allowed prisoners control of the productive process, as opposed to the absolute dictation of life, labor, and environment that prisons attempt. It allowed workers to move themselves to the music and not focus on the sun, the armed guard, their aching

¹¹⁸ Albert Race Sample, *Racehoss: Big Emma’s Boy* (Austin, TX: Eakin Press, 1984), 172-3. Importantly, here Sample inverted the representation of slang and of the prose that folklorists used to transcribe black dialect, but used it here for representing the accent of the poor white Texan guard. Sample is also cited in the liner notes to the Alan Lomax Collection CD *Prison Songs, Historical Recordings from Parchman Farm, 1947–1948, Volume One: Murderous Home* (Rounder Records, 1997).

shoulders or their blistered feet. Worksongs functioned as a politics of forgetting and remembering: forgetting the torture they were undergoing, and remembering other times, other places. No less than industrial workers staging an assembly-line slowdown, these songs were a slowdown of the productive process. The ability to dictate the pace of labor, and of seizing moments for rest, was a crucial way that the different space and the different time of prison music was literally crafted by prisoners.

As a prisoner named Bama explained to Alan Lomax, when prisoners sang, the time just went better. Another inmate commented on the temporal acceleration that worksongs provided: “When you listenin how the song run, the day just go by mo faster...and befo you know it, the sergeant or the driver is hollerin dinnertime.”¹¹⁹ Other songs, like “Go Down Ol’ Hannah,” were almost prayers to the sun to fall more quickly, so that prisoners could get some meager rest.¹²⁰ Thankfully, another day of their sentence would pass.

One of the primary activities in which prisoners sang worksongs was for chopping down trees in the woodcutting squads. These songs were known as “cross-cutting songs,” and functioned so that the eight or ten men standing in close quarters around a tree, each of whom was swinging an axe, would time their strokes so that no blade would fly out of control and maim another imprisoned worker. Music provided the rhythm through which prisoners timed their labor, and this made for efficient work, in a largely unalienated way. One said: “You take [prisoners] around a tree and they’ll sing it down, they’ll sing down in harmony[;]... when you workin’ in union and singin’

¹¹⁹ This quote is cited in Oshinsky, *Worse Than Slavery*, 147.

¹²⁰ Jackson, *Wake Up, Dead Man*, 111–118; Oshinsky, *Worse Than Slavery*, 146.

in union, it makes it a lot easier all around.”¹²¹ Philosophers Gilles Deleuze and Felix Guattari suggestively theorized how places are formed and contested through music, and they described how new places could be made: “One opens the circle” – a circle of prisoners felling a tree – “not on the side where the old forces of chaos press against it but in another region, one created by the circle itself.”¹²² By way of singing their way through hard labor, prisoners changed the experience of their incarceration. And the feeling and metaphors of spatial transformation were not just the domain of poststructuralist theorists. According to one visitor to Parchman Farm, the sound of the music “could almost take you off of your feet.”¹²³

In the song “Let your Hammer Ring,” the song leader Big Louisiana, sets the timing for their labor, so that no axe would fly out of control and possibly maim another prisoner. But in addition to setting the timing for their labor, Big Louisiana also invoked the feelings of loss, set in terms of gender and sexuality. As noted above in the California context, men’s forced labor was understood by many as a symbolic emasculation, whereby male inmates lost control of their bodies, the fruits of their labor, and were distanced from female sexual partners. They also lost the possibility of earning wages, and thus could no longer contribute to their spouses’ and children’s wellbeing – also a key part of American masculinity. With this in mind, Big Louisiana’s verses are especially relevant, as he voiced suffering, but also claimed an alternative masculinity to the one assaulted by incarceration.

¹²¹ Jackson, *Wake Up, Dead Man*, 26.

¹²² Gilles Deleuze and Félix Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia*, trans Brian Massumi (Minneapolis: University of Minnesota Press, 1987), 311.

¹²³ Cited by Oshinsky, *Worse Than Slavery*, 145.

In particular, he lamented his separation from his spouse or sexual partner, who, according to the song, he saw in a dream. In this and other songs, the singer's spouse is left at home or in the courthouse, begging the Judge for leniency for her mate. And the singer despairs that she, Berta, might find another man while he is suffering in jail.¹²⁴

Well I believe I spied Berta...
In my midnight dream, boys...
She standin' ahead of my bedside...
In a negligee...
Well big leg Berta...
Well I left my woman...
She's in the courthouse cryin,' boys...
"Well Judge can't you help my man"...
Well I'm going away to leave you gal...
But I'll be back home gal...
Don't let nobody...
Tear my playhouse down, gal...
Well Berta don't you love me, gal?...¹²⁵

The spaces that most worksongs claimed were definitively male spaces, just as the spaces of most Texas prison farms were definitively male – save for the Goree Farm. Prisoners voiced vigorous valuation of masculine power, and found esteem in outperforming fellow prisoners. One inmate told Jackson about masculine pride associated with working for “One Hoe Squad,” the group known for working fastest and accomplishing the most labor:

After a while it becomes a challenge. You get kind a get a little team spirit more or less, you like to be in One Hoe. I mean, you work harder and faster, but you're better than those pull-dos [slow workers]. You know. Just like a guy

¹²⁴ Much like José Limón's urban poor *mexicano* men, these men's folkloric practice (and everyday practices) were intertwined with the objectification of women and gender-based domination. See Limón's *Dancing with the Devil: Society and Cultural Poetics in Mexican American South Texas* (Madison: University of Wisconsin Press, 1994), 182-183.

¹²⁵ “Hammer Ring,” *Prison Worksongs*.

that can drink more whiskey than somebody else. It's ridiculous, but it's that way.¹²⁶

One Hoe workers also got other perks for their labor, in addition to the muscular pride associated with such exertion. Slower workers, consequently, would be feminized and known as lower in the hierarchy of penal life. In the pervasive violence of prison worlds, where violence could come from other prisoners as easily as it could from guards, sexual tensions and contests over masculinity found expression in sexual violence. Uncontrolled sexuality was a consistent fear of elite penal authorities, as well as a source of domination within prisoner hierarchies themselves.¹²⁷

But songs allowed for expressions of manly potency, and these, it seems, were fulfilling for prisoners in a situation that attempted to render them powerless, and thus feminine. In versions of "Let your Hammer Ring," the leader says that his hammer (axe) is on fire because it is so powerful. The hammer is clearly a phallic symbol in these songs. The axe (variously called a hammer or a diamond—presumably from its shape when viewed from above) often took on supernatural powers in songs.¹²⁸ It is on fire as it bites into the tree he is felling, as a result of his skill and strength. The hammer, though, can't be cooled by the waterboy's water. He takes it to the Brazos River (itself symbolic of freedom, according to Jackson), but it still won't be cooled. Nor can it be sharpened by the guards. In the song "Alberta," the trope of the hammer

¹²⁶ Quoted in Jackson, *Wake Up, Dead Man*, 35.

¹²⁷ See the "Con Bosses, Building Tenders" chapter in this dissertation. See also Martin and Ekland-Olson for reformer Austin MacCormack's 1944 report on the disciplinary failures, prison sex, and violence in Texas, esp. 15–18. Of course, failure to "contain" prisoners' sex has long been a scourge of prison administrators. See also Don Sabo, Terry A. Kupers, and Willie London, eds., *Prison Masculinities* (Philadelphia: Temple University Press, 2001).

¹²⁸ See versions A—G in Jackson, *Wake Up, Dead Man*, 194–200.

“rings like silver and it SHINES LIKE GOLD/ Price a my hammer, boys, AIN’T NEVER BEEN TOLD.” The workers claimed value in their labor, and through the singing, enunciated their pride in their physical strength using tropes of diamonds, precious metals and highly valued goods, valorizing the tools they were forced to use. Needless to say, their unwaged labor was not highly esteemed by the state that cared little for them, their families, or their lives. The singers took some moment of pride in themselves and their work, even though they earned neither pay nor freedom nor respect. Their music represented the struggle to survive in horrific circumstances wrought by racialized status in a capitalist economy in crisis.

Such valorization of masculinity in black prisoners’ worksongs found its inverse in a denigration of those people marked as feminine.¹²⁹ Singers found common currency in discussing the absence of women, and of missing their partners. Yet many prisoners were guilty of violence against women prior to their arrests, and they sometimes sang such violence into their songs, especially when sexual partners were thought to be unfaithful. But these hypermasculine performances were designed to impress other males, and operated within the matrices of power, dominance, and difference exacerbated by penal worlds. Though they often voiced misogynist themes, worksongs also often expressed genuine longing for loved ones, and this longing served as a largely common language for the performance of masculinity as an inclusive identity in this male community designed for alienation. Music, as noted above, is

¹²⁹ The denigration of women in music was hardly the sole purview of black men. White cowboy music and Mexican conjunto and canciones-corrídos similarly denigrated women while valorizing particularly racial working class masculinities. See Chapter 5.

always steeped in power, and though worksongs operated on one level in a politics of inclusion and in reclaiming the conditions of incarceration, it simultaneously operated upon the exclusion of women. Worksongs clearly operated from a position of male dominance over women, children, and effeminate males, gendering those within the worksong's milieu in particularly masculinist ways.

Yet, more complex still, worksongs also allowed for a nurturing and supportive male voice in penal farms, one that may have otherwise not been permitted in the codes of masculinity that scorned weakness. Prisoners could show genuine concern for each other, despite the alienations of this punitive world. One leader sang "Watch my buddy, buddy he start to fall, Help that boy, won't you make it long."¹³⁰

As noted above, white prisoners have left far fewer records of their reflections on penal farm life and labor than did black prisoners. However, the contemporary market proved that there was popular interest, if not folkloric value according to the Lomaxes, in the Mexican border ballads and Western Swing that voiced numerous critiques of poverty and the law.¹³¹ The "folkloric" value that scholars found in black prisoners, while not entirely missing in whites, made them worthy prey for "ballad hunters" like John A. Lomax, a relationship that itself carried serious differentials in

¹³⁰ Johnny Butler and Gang, "Early in the Mornin'" on *Prison Worksongs*, Arhoolie Records, recorded at Angola Penitentiary, 1959.

¹³¹ According to Jean Boyd, historian of Western Swing and the Lightcrust Doughboys, Bob Wills' 1930 song "Twenty-One Years" was among the most frequently recorded songs of the 1930s, and was commonly on jukeboxes and the radio. This song lamented the singer's distance from home, his loneliness in prison, and, like many black prisoners' worksongs, rhetorically inverts the position of the singer and governor, who could pardon him. See Jean A. Boyd, *We're the Light Crust Doughboys from Burrus Mill: An Oral History* (Austin: University of Texas Press, 2003), 32. For lyrics, see Dorothy Horstman, *Sing Your Heart Out, Country Boy* (New York: 1976), 303, cited online at <<http://www.bobdylanroots.com/21.html>>.

social power. But despite the relative paucity of white prisoners' perspectives on labor in fields and Texas prison farms, white prisoners opposed the terms of their labor in numerous ways, longing certainly for freedom, or for better labor assignments and more dignified treatment. Punishment records (many of which have since been destroyed) offer insight into how prisoners opposed the terms of their labor and their incarceration.

Many prisoners threatened violence on their keepers, though this was a rare occurrence. Nevertheless, fabled escapes by Clyde Darrow and his gang, as well mass escapes at other times, bespoke the cracks in the Texas Prison System, and its failure to fully contain inmates on farms and behind walls. On June 22, 1937 three prisoners tried to escape from the Eastham Farm, a farm for white recidivists. As they worked about a mile east of the Eastham Camp No. 2, a guard on horseback carelessly allowed prisoners to work closer to him than they were ordinarily permitted. As the guard rolled a cigarette, with his shot gun across his lap, one inmate distracted him while another grabbed the shotgun. Once the guard was disarmed, they forced him to strip, shaming him while trying to hide their identities as marked by their convict clothes. After they made their escape, no other guards chased them. Though three prisoners participated in the escape attempt, twenty one others did not, finding more possibility in obedience on the prison farm than in life on the run.¹³²

David "Cockle Burr" Wilson, a white prisoner at the Maximum Security Eastham Farm told stories about his numerous escape attempts. While he was originally sentenced to two years, his escape attempts (thwarted time and again) earned

¹³² Governor Allred Proclamation 17635, 23 July, 1937. TSLAC, Allred Box 1985/024-96, Folder: Texas Prison System, General Correspondence and Proclamations July 1937.

him a life sentence. However, according to his stories, he earned the nickname “Cockle Burr” when he once disarmed a guard and forced him to walk back to the tanks with a cockle burr in his boot.¹³³

There were some thirty seven different official whipping orders executed in April 1930 alone. Of these, nearly half (18) involved punishments specifically geared toward forcing prisoners to work. These involved “laziness,” “refusal to work,” and “refusing to thin corn right.” Other punishments were directly in response to attacks on guards or on state authority, such as “mutiny,” an “Assault on Cap’t Baughn and Guard Woulverton,” “destroying state property,” “destroying crops,” and “impudence.” April 4, 1930 saw 11 prisoners at Ramsey Farm punished for Mutiny. Each received 20 officially-sanctioned lashes; other informal punishments were not recorded and remain beyond the historical record. The remainder of punishments came for inter-prisoner violence, such as fighting in building, a gang rape and stabbing, and attacking another prisoner with an axe.¹³⁴

Not only did prisoners attack each other, but prisoners across the Texas Prison System opposed the terms of their labor and their incarceration in self-destructive ways. Prisoners at the San Quentin jute mill may have had their hands crushed in moving gears of industrial machinery, but prisoners in Texas often mangled their own hands in order to avoid work for at least a short while. Many was the prisoner who cut his Achilles’ tendon, or who severed fingers in order to avoid working while they

¹³³ *Thirty Minutes Behind the Walls*, Program 11, June 1 1938. CAH.

¹³⁴ Whipping Orders Executed in April 1930, TSLAC, Box 1984/024-45. On inter-prisoner violence, see Chapter 4. For other whipping orders, see Governor Moody Papers, TSLAC, Oversize Box 124.

convalesced on the Wynne Farm or the Hospital at the Huntsville Walls unit.¹³⁵ Senator Gordon Burns went so far as to publicly announce his disappointment at these prisoners on *Thirty Minutes Behind the Walls*. While Burns proposed his new clemency plan, which prisoners certainly advocated, he told listeners,

But I want to add just this: lately there has been a good deal of maiming going on amongst the inmates. Prisoners—some of them—have been injuring themselves to keep from working. And no man guilty of this could ever obtain his freedom through clemency under the terms of my bill.¹³⁶

Self-mutilation was all too common a part of the Texas prison system, a deeply troubling way for prisoners escape the harshness of forced labor; to get some rest in the hospital for a while. Texas authorities hated that prisoners injured themselves – it was an affront to the TPS for many reasons. First of all, it demonstrated that the prison couldn't control what prisoners did with their own bodies. Second, prisoners couldn't work when they were injured, and became a drain on the prison's budget. Third, and perhaps most important, prisoners' self-mutilation disgraced the system by making it appear brutal, when officials vocally claimed that it was a care-giving institution. Lastly, self-mutilation was a way for prisoners to claim their own bodies, even if it was literally self-destructive. But it was nonetheless self-motivated action.¹³⁷

As a result, prisoners who severed their Achilles' tendons lost good time, and it was seen as almost as bad as an assault on the prison staff. This form of opposition was

¹³⁵ Prisoners who severed their Achilles' Tendons were called "heel stringers" in a 2001 joint Texas Historic Commission/ Department of Criminal Justice Publication. Cited in Hudson, "Central Unit Main Building and its Historical Significance," 15.

¹³⁶ *Thirty Minutes Behind the Walls*, Program 13, June 15, 1938.

¹³⁷ In similar fashion, Walter Johnson describes how slaves could control some tiny degree of their own destinies by threatening suicide if they were sold or moved away from families. Many prisoners also transformed their own bodies by severing fingers in order to be less easily sold. Johnson, *Soul By Soul: Life Inside the Antebellum Slave Market* (Cambridge, MA: Harvard University Press, 1999), 33-4.

hardly a romantic form of “resistance”; it can hardly be understood as a “rational” practice to better the conditions of one’s life. Self-destruction demonstrates limits to the historiographical notion of agency in this hyper-alienated environment, and to some extent confounds interpretation with the established tools of historical analysis, such as James Scott’s domination/resistance model.¹³⁸ However, this does not mean that analysts cannot attempt to understand the meaning of self-destruction. Prisoners who destroyed their own bodies did so as an expression of what others might understand as madness, of irrationality. And they did so even though they knew they risked further punishment. But it was also an attack on the authority of the system, and of the prison’s control of their bodies. Much as it had a century before, self-mutilation served to demonstrate the fallacy of slave owners’, and now and prison officials’, fantasies that they were kind and benevolent patriarchs. And this resonated with the fear and shame that state officials felt when Texas newspapers reported that prisoners severed their own Achilles tendons or mangled their own hands. It showed that this was indeed a brutal regime, regardless of the stories that officials told themselves and others. But not all officials responded with shame or embarrassment. When one journalist asked Lee Simmons what he intended to do about prisoners who maimed themselves, Simmons replied, “Give them more axes.”¹³⁹

¹³⁸ James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven : Yale University Press, 1990), Walter Johnson, “On Agency,” *Journal of Social History*, Vol. 37 No. 1, (Fall 2003): 113—124.

¹³⁹ R. Craig Copeland, “The Evolution of the Texas Department of Corrections,” (MA Thesis, Sam Houston State University, 1980), 56.

Anthony Sayers, a white prisoner on the Retrieve State Farm, wrote a letter to Governor Coke Stevenson explaining how maltreatment on the prison farms bred ever-deeper antagonism by inmates, and made them into “mad dogs” rather than citizens or men. Sayers’ letter is worth quoting at length:

In the hearts of those men that are classified as incorrigibles and placed on these camps is a livid hate and when they get loose they are called mad dogs by an indignant public who never stop to wonder what made them that way. They have been made to come out of their barracks with tear gas and bullets and herd them to fields and tried to force them to raise crops. They worked – Yes – they worked hard and sweat rolled off in torrents as long as the guards had their eyes on them but the moment their eyes were turned they destroyed with vigor that which they were forced to do.

They have burned their barracks and they burned their barns filled with feed. They have sabotaged every piece of machinery they have had chance to. They have killed thousands of Dollars worth of stock; they have mutilated themselves in groves of protestation.... They are not Mad Dogs and they can be turned into useful citizens and they can be lead (sic) to pull their own weight while they are doing their debt to society....¹⁴⁰

Urging practices of dignity and reform, Sayers argued that benevolent treatment would be far better suited for Texas’ prisoners than continued brutal treatment and hard driving in fields and farms. Otherwise, they would continue to burn and destroy their prison, and remain lost to society. Hardness would be met with hardness, he reasoned, and brutality with brutality--especially when white prisoners were forced to do “nigger work,” or were treated with less than the dignity that they felt their race deserved.¹⁴¹

¹⁴⁰ Letter to Gov. Coke Stevenson from Anthony Sayers, #94054, Retrieve State Farm, TSLAC, Stevenson Box 414/136, Folder "Prison System 1943" 12/04/1943.

¹⁴¹ David Oshinsky describes white prisoners’ rebelliousness at forced agricultural labor and at the performances of subservience at Parchman Farm, suggesting that white prisoners protested more frequently and more violently than black prisoners. I interpret the reason for this different rebelliousness as white male prisoners’ prideful rejection of forcible feminization and racialization inherent to rituals of subservience. A group of religious advocates for prisoners opined that when white men were forced to “doff their caps” to visitors, and forced to be “humble and servile at all times,” they would be equally

Opposition to domination, as a form of semi-autonomous action of life and desire, can perhaps be of two fundamental types. The first can be a direct confrontation with the mode and method of oppression – in prison, this might mean burrowing under tall walls as a means of escape, or killing the prison guard who had the authority to kill. A laborer might break the tools they worked with or otherwise sabotage the means of production. The second type of opposition moved in a different direction than direct confrontation of overwhelming odds; it moved onto a new terrain than the one set by the dominant form of power, in a sort of movement that changed the direction of the conflict. Such was the case of black prisoners' worksongs. Worksongs did not provide an external escape from the prison, but rather enveloped and folded new senses of time and space into the prison itself. The first kind of resistance was more easily understood, controlled, and repressed (though never fully) by overwhelming violence. The second was incorporated into prison regimes while also materially transforming the regimes themselves. Both forms met and overlapped every day in Texas prison farms, where agricultural labor extraction and guards' desire for submissiveness sustained a brutal regime. They overlapped when all prisoners were subject to universal degradation as convicts, and through what male prisoners felt to be their symbolic emasculation and racialization through forced labor, disrespect, and lack of control over themselves.

forced to rebel or to kill themselves. No matter what a white prisoner's status might have been before incarceration, "he comes out just a cotton chopper or a cotton picker" – certainly a racialized identification. And whites in the 1930s increasingly rejected association with labor in cotton fields as part of their racial and working identities. See Oshinsky, *Worse than Slavery*, 165.

Conclusion

Inmates' labor in Texas and California served different and contradictory ends. In each state, labor was guided by the longstanding ideology that hard work would teach criminals a good work ethic and the habits of industry. At the same time, ideology behind prison labor suggested that assignment to different positions would replicate gendered hierarchies throughout society, where men could control themselves and their labor, perhaps even earning a small wage to confirm their status and masculinity as agents able to participate in the consumer market place, and as patriarchs able to contribute to their families' well being. Obedient prisoners would be rewarded by promotion through these hierarchies, becoming part of what officials identified as a meritocratic system, but which must be understood as a coercive meritocracy, whereby there were material benefits and punishments associated with obedience or recalcitrance.

Yet the conditions of labor differed from these ideological ideals. Labor assignments were frequently structured by racial hierarchies and de facto, if not de jure racial segregation. The best jobs were reserved for the most highly skilled, the best behaved, and always for white prisoners, many of whom found real pride in their labor, and a respite from boredom and the alienation of not working. Black and Mexican prisoners, and the worst behaved whites, would be assigned to the worst and most degrading assignments in each prison system – the quarry or the jute mill in California, or to the fields and farms throughout the Texas prison empire.

Prisoners nonetheless claimed alternative meanings in their labor. Many subverted the gendered hierarchies that officials imposed with their own alternative masculinities, whereby obedience signaled effeminate weakness, and recalcitrance proved to themselves and others a powerful masculinity. Prisoners constantly sabotaged the tools of production, they slowed down work, and were impudent and mutinous. They destroyed crops, burned down buildings, and at times, destroyed themselves. In every case, gendered and racial hierarchies interpenetrated with disciplinary and oppositional techniques. Labor, as a tool of economic production as well as social control, proved a tense front through which social conflicts were fought but never resolved.

Chapter 4

Building Tenders, Con Bosses, Queens, Guards and Reformers: Networks of Authority in Mid-Century Texas and California Prisons

This chapter is guided by questions that may at first seem self evident, but on further consideration, become convoluted and confused. Who is the State? How does “it” rule? They seem straightforward enough, but they are questions that relatively few historians of the New Deal state, or historians of American prisons, have asked. What is the distribution of authority in the conflicted realm of a complex institution? In prison, a location where the state attempts absolute control, where does power actually reside? In this chapter, I examine the convoluted networks of power inside Texas and California prisons in the 1930s and 40s. I build on models of power founded on forms of social capital that are relational and practiced multidirectionally, through which both “the state” and its wards were constituted, and through which they made themselves and their institutions. The specific currencies of social capital were rooted in economic, sexual, violent, symbolic, and bureaucratic sources, combining in dense networks of authority.¹ But while power was relational rather than simply structural, and though the state and prisoners’ culture were diffuse and multidirectional, its final expression came from thick stone walls and the barrels of keepers’ guns.² In every instance, power in

¹ I build on Pierre Bourdieu’s model of symbolic capital, discussed in *Outline of a Theory of Practice*, trans. Richard Nice (New York: Cambridge University Press, 1977), esp. 171—197.

² Sociologists have tended to examine power hierarchies in prisons more thoroughly than historians, perhaps because available source materials have been very much geared toward official representations

these complex institutions was confused and disordered, yet surprisingly effective in the lives of prisoners themselves, whose acts of opposition were nearly always individuated and frequently victimized other prisoners. When prisoners attacked guards or attempted

that leave unofficial power hierarchies unacknowledged, but also because such sources offer interpretative difficulty in demonstrating change over time. Among sociologists, see Christian Parenti's *Lockdown America: Police and Prisons in the Age of Crisis* (New York: Verso, 1999), Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (New York: Penguin, 1961), Donald Clemmer, *The Prison Community* (New York: Holt, Rinehart and Winston, 1958, [1940]), Gresham M. Sykes, *The Society of Captives: A Study of a Maximum Security Prison* (Princeton: Princeton University Press, 1972 [1958]), Steve J. Martin and Sheldon Eckland-Olson, *Texas Prisons: The Walls Came Tumbling Down* (Austin: Texas Monthly Press, 1987). Goffman uses the term "social exchange" to describe covert economies in total institutions, which is similar in all but name to my own use of "social capital." See Goffman, 243, 244. Barbara A. Owen's *The Reproduction of Social Control: A Study of Workers at San Quentin* (New York: Praeger, 1988) offers an admirable relational model of power in her analysis of conflict within guard culture. Among historians, David M. Oshinsky's *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996) describes the trusty-shooter system Mississippi and the brutality it generated among Mississippi prisoners, but also the end of this system (officially, at least), as part of Mississippi prison reform efforts. Alexander W. Pisciotta describes in some detail the everyday functioning of the Elmira Reformatory from an 1893-4 investigation. He documented numerous cases of sanctioned beatings, of widespread sexuality among prisoners, and of prisoners who were recognized as guards in the system, and subsequent widespread corruption among prisoners. While some may argue that Folsom Prison under Plummer (as I discuss in detail below) was anomalous to the "normal" functioning of California prisons, I would suggest that the investigation simply revealed the everyday functioning of the prison system. Perhaps because Elmira is commonly touted as a model institution in the criminal justice historiography, Pisciotta's narrative is one of surprise that the prison was so disordered and its subsequent documentation, rather than a more thorough analysis of how these interconnecting illegalities in sexuality, bureaucratic authority, and domination occurred in the prisons' dis-ordered markets in sexuality, violence, and bureaucratic authority. While Pisciotta's is the best historical analysis of the day-to-day functioning prisons I have seen, I disagree with him by also finding discord between guards and elite officials, and in understanding fundamental guard complicity in activities that reformers would label as corrupt. Pisciotta, *Benevolent Repression: Social Control and the American Reformatory-Prison Movement* (New York: New York University Press, 1994), especially 33-80. Pisciotta draws on Erving Goffman and Gresham M. Sykes to question and subsequently describe how and why the reformatory model failed to actually reform people. His answer is first, that prisoners resisted their "treatment," (in his terms "resistance," a la James C. Scott's *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990), is called "secondary adjustment" as an "adjustment" in opposition to officials' desired "primary adjustment"), and second, that the medical model of correction was flawed to begin with. I ask a different set of questions: how did the prison function on a daily basis? What were the modes of power and hierarchy that were expressed and contested in this highly conflicted institution? Perhaps because I am writing in the early 21st century, I have already assumed that prisons fail to reform people into obedient and normalized subjectivities, and do not ask why this has been the case. Instead, I ask how prisons replicated themselves and how conflict and hierarchy have historically been expressed within them.

to escape, it was generally with only themselves in mind. Indeed, prisoners rarely rebelled in unison against inchoate authority but all too effective firepower.

To understand the nature of power behind bars is to assess who and what “the state” was. It is to “bring the state back in” to social and cultural histories of the disenfranchised by showing the interpenetrations of “the state” and the populations “it” attempted to control, as well as how the idea of the state and the actions in its name were experienced in everyday life.³ It is to ask how “the state” functioned in the 1930s, when the very nature of state authority was in the midst of dramatic redefinition. These are not easy questions, especially when the everyday forms of power and networks of authority were rarely described in the records that these institutions generated. The history of the intermingled official and unofficial economies in a prison’s everyday life is an exceptionally hard history to write – as in all subaltern studies, prisoners and guards who were most effective at manipulating the prison market would never have been entered into the official sources that make up historical archives, and are the foundation of historical knowledge. Indeed, many official record keepers either never saw or chose not to see what went on around them. Others actively suppressed recording the complex ways prisoners and guards interacted, for fear that it would upset

³ For an historical monograph examining the state as a symbolic process as well as a set of bureaucratic institutions, see Claire Bond Potter, *War on Crime: Bandits, G-Men, and the Politics of Mass Culture* (New Brunswick, NJ: Rutgers University Press, 1998). For useful theoretical and empirical discussions of culture and state formation in a different context, see eds. Gilbert M. Joseph and Daniel Nugent, *Everyday Forms of State Formation: Revolution and the Negotiation of Rule in Modern Mexico* (Durham: Duke University Press, 1994).

their supervisors and that the forces of disorder, which Gresham Sykes identified as the “defects of total power,” would threaten their jobs.⁴

Yet from testimonies given in the wake of scandals, or in prisoners’ descriptions of “normal” prison life, it became evident that “the state” was an inchoate entity, and that prisons were constantly out of control.⁵ Guards were confused as to their duties and fought with their employers; prisoners couldn’t see into the guard towers that watched them; officials had to rely on reports from employees whose motives they couldn’t always trust; prisoners didn’t know if they were being cheated by others; radios malfunctioned. Official vertical hierarchies, from governor to prison board to warden, lieutenants, and then to guards – rested inextricably within prisoners covert networks and unofficial markets – from gambling to sex to violence and favors. When New Deal era reformers tried to transform prison systems in the wake of scandals, as had reformers before them in the Progressive Era, they could hardly do so, because the systems they tried to change developed significant institutional and personal momentum. In short, the prison worked in a constant state of confusion, disarray, and

⁴ Sykes, *The Society of Captives*, 40—62. Sykes builds on Donald Clemmer’s 1940 sociological work, *The Prison Community* (New York: Holt, Rinehart and Winston, 1958). Following in this tradition, Gresham M. Sykes argued that a world of “argot roles” – denoting sexuality, capacity for violence, willingness or unwillingness to “snitch” on fellow inmates – animated the prison community and undermined officials’ stated goals of rehabilitation. In addition, the messy everyday encounters between prisoners and guards sustained the irreconcilable “defects” of a system where the state attempted to maintain “total power.” Historian Peter Zinoman also described the institutional obligations not to record information that might portray their institutions or themselves in a bad light. See Zinoman, *The Colonial Bastille: A History of Imprisonment in Vietnam, 1862-1940* (Berkeley: University of California Press, 2001), 8.

⁵ Scholars have noted that there were relatively few major riots in American prisons in the 1930s and 40s, while there were more in the late 1920s, the 1950s, and the 1970s. This is true enough, but quiescence does not indicate a lack of conflict, but rather indicates an effective exercise of power. See Loïc Wacquant, “Deadly symbiosis: When ghetto and prison meet and mesh,” *Punishment and Society*, Vol. 3, No. 1, (1998): 95—143, and Rebecca McLennan, “Punishment’s ‘Square Deal’: Prisoners and their Keepers in 1920s New York.” *Journal of Urban History*, Vol. 29 No. 5, (July 2003): 597—619.

incomplete information. And this was the last resort of state authority, the ultimate sanction, along with death, that the New Deal State enforced.

Power and authority in Texas and California prisons interwove overt and covert power networks, in which prisoners exercised authority and played key roles. But to say that prisoners influenced the prison is definitively not to assert that prisoners were “resisting” power in any utopian manner.⁶ Rather, prisons generated a Hobbesian world in which all were quite literally set against all, where friendships and connections met with violence, blood, and favors – where the connected did well for themselves, and rarely by doing good for others. As one Folsom inmate described from solitary confinement in 1944, life in prison was “politics, as everybody knows, and if you are in, you are in, and if you are out, you are out....”⁷ Reformers of the era attempted to untangle the webs of authority and hierarchy, concentrating power in administrative mechanisms and bureaucratic controls.

⁶ Among labor historians, Peter Way’s *Common Labor: Workers and the Digging of North American Canals, 1780-1860* (Baltimore: Johns Hopkins University Press, 1997) is the classic rebuttal to unproblematic celebrations of workers’ agency as resistant and utopian. Way particularly chooses Sean Wilentz, *Chants Democratic: New York City and the Rise of the American Working Class, 1788-1850* (New York: Oxford University Press, 1984) to represent the sort of literature he critiques. Among recent historical writings on prison and prisoners’ culture, Mary Ellen Curtin’s *Black Prisoners and their World: Alabama, 1860—1900* (Charlottesville: University Press of Virginia) eschews black prisoners’ agency as purely celebratory, but her efforts to document how prisoners *made* their world, in E. P. Thompson’s sense in *The Making of the English Working Class* (New York: Vintage Books, 1966), leans toward the now-popular domination/resistance model. Stressing prisoners’ “agency” and resistance however, poses very tricky questions. As Walter Johnson has recently argued, *agency* as a category of analysis is rooted in liberal notions of subjectivity and citizenship that were originally defined against the category of the slave. And prisoners, like slaves, are subjects who are explicitly denied the benefits of liberal citizenship and subjectivity. See Johnson, “On Agency,” *Journal of Social History*, Vol. 37 No. 1, (Fall 2003): 113-124, and Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford University Press, 1997). Thus transformative resistance was nearly impossible behind bars, even at the same time that prisoners’ opposition clearly impacted and transformed the conditions of incarceration in unpredictable ways.

⁷ Jack B. Olympius testimony, Folsom #24315, Volume III: Witnesses Before the Governor’s Committee on Investigation of Folsom Prison, 684-706. CSA, Earl Warren Papers – Governor’s Committee on Penal Affairs – 1943-44. F3640:958.

Yet the institutions and the people who made them proved resistant to change. In Texas and California, certain prisoners in each system occupied key points within overt and covert power networks. Through Building Tenders in Texas and Con Bosses in California, the prisons' official productive forces meshed and overlapped with unofficial economies of sex, contraband exchange, violence, favors, and the control of space. The amount of authority a particular prisoner could exercise was generally linked to their location in the prison's productive economy, or to the degree and type of sexual, violent, economic, or bureaucratic capital they could mobilize. Building Tenders were armed by guards and charged with enforcing violent sexual order in the prison dormitories known as tanks. Authority in California prisons was based less in explicit violence than were Texas prisons, and were rooted instead in a more modernist, factory-like economy. As the heads of various prison departments and managers of productive processes, Californian Con Bosses used their positions to cultivate relationships of exchange to their personal advantage, often to the detriment of other prisoners. Both of these systems – of Con Bosses and Building Tenders – effectively undermined the creation of any horizontal sense of prisoner solidarity, as prisoners frequently found themselves put at odds to one another, rather than against the keepers of their institutions.

However, when individuated forms of opposition within these networks transformed into moments of communal protest, as in a San Quentin food protest and work strike in 1939, prisoners faced the full reassertion of state power across the spectrum of official administrative and unofficial violent capacities. While these

ruptures generated records that give insight into historical processes that would have otherwise gone unnoticed, these periodic ruptures proved the rule of a silently operating authority. When reformers analyzed their prisons and found them in a state of near havoc, they, like their compatriots throughout the New Deal era, sought to regulate the markets of sexuality, violence, and commodity exchange rampant within the institutions.

The chapter begins by analyzing the networks of authority that animated the prison market and the primary kinds of prisoners who took advantage of those markets. The specific modes of authority I address in turn are violence and sexual violence, a subaltern market in commodity exchange and gambling; and sexuality as an element of exchange. At times, these different forms of social capital worked at cross purposes to each other, while at others they overlapped. Nevertheless, all worked in turn to mitigate processes of community formation amongst prisoners and maintained the prison as a population of alienated individuals. As Donald R. Cressey pointed out in 1958 – and which few analysts since discussed – prison officials actively employed techniques of “psychological isolation” to keep “inmate society as unorganized as possible.”⁸

When prisoners did come together in moments of protest, they met another foundation of authority behind bars: state violence embodied by individual guards. But this was never a rational, impersonal state violence, but was instead highly personal, meted out with relish by the individual men who acted as state agents. Yet prison reformers’ investigations in 1939 and in 1943-44 tried to impose a state order

⁸ Donald R. Cressey, 1958 Foreword to Clemmer’s *The Prison Community*, ix.

eliminating any taint of personal passion, be it violent or sexual. In this, New Deal era state officials attempted to regulate the unkempt markets of sex, violence, and commodity exchange within a rational, liberal capitalist regime.⁹

Building Tenders: Sexual Violence and Officially Unofficial Power Structures

After the 1928 reorganization of the Texas Prison System (which restructured the highest levels of the prison administration, while leaving everyday conditions largely unchanged), the Texas prison system's administration was a hierarchical structure with the State Prison System's General Manager at the top, overseeing all day-to-day operations of the various prison farms and the central Huntsville Walls unit. The General Manager reported to the State Prison Board, whose remaining Minutes indicate that they exercised minor obligations, produced innocuous reports, and occasionally met with legislators, but left the General Manager firmly in charge of daily operations as well as significant long term planning. The various prison farms within the System were run as a individual and largely autonomous entities, with a Warden or Farm Manager responsible for daily operations, crop rotation, and discipline. If managers ran

⁹ Barbara Jeanne Yaley's Marxian analysis of the California Prison System argues that California prisons underwent bureaucratic modernization and centralization in the 1940s as part of the state's transformation under new modes of monopoly capitalist hegemony. In marked contrast, Shelley Bookspan makes the liberal argument that the California Department of Correction's centralization reflected a new, humanitarian concern for prisoners' welfare. While I agree in broad terms with Yaley's analysis more than I do with Bookspan's, I also believe that Yaley inadequately accounts for the key roles that violence and sexuality played within prison systems, and that California's prison reformers responded to fears of irrational sex, violence, and prisoners' authority in commodity exchange. These were highly local conflicts and forces behind California's prison walls, though prison reformers' concerns and the modes of punishment were inextricably embedded within and contributed to political economic transformations. Yaley, "Habits of Industry: Labor and Penal Policy in California 1849-1940" (Ph.D. dissertation, University of California at Santa Cruz, 1980), Bookspan, *A Germ of Goodness: The California State Prison System, 1851—1944* (Lincoln: University of Nebraska Press, 1991).

a productive farm without much public complaint, they were pretty well left alone. If there were escapes or a surprising number of deaths, they might be investigated. One scholar described that a Manager named Buck Flanagan “ran the Imperial State Farm...as if it were his own private kingdom, and for many years it appeared to be.”¹⁰ On the farms, managers delegated authority to their well-armed guard corps, who oversaw prisoners at work in the fields and on the roads. Perched on horseback, they shouting at prisoners to work harder, run, chop more cane, or pick more cotton. When not overseeing labor, the guards – known as picket guards or picket bosses – were stationed in central hallways between the dormitories where prisoners slept, known as tanks. But guards could not see into the tanks, nor did it seem that they cared to.¹¹ Rows of bunk beds lined the walls, obscuring the views of the guards and thus, the official representatives of the state. This was no Panopticon.

Indeed, the architecture of prison tanks was such that there was little surveillance of prisoners by guards. Once inside the tanks, selected prisoners known as Building Tenders maintained control. This basic administrative structure existed on all prison farms, regardless of the race of prisoners, or their status as repeat offenders or first timers. Building Tenders were charged with controlling space within the tanks.¹²

¹⁰ R. Craig Copeland, “The Evolution of the Texas Department of Corrections,” (MA Thesis, Sam Houston State University, 1980), 43.

¹¹ On the poor visibility of picket bosses into tanks, see Austin MacCormick’s 1944 report to the Prison Board, cited in Martin and Ekland-Olson, *Texas Prisons*, 17. This was a marked contrast to the panoptic prison posited by Michel Foucault in *Discipline in Punish*. Panoptic authority was an architectural and financial impossibility for the Texas prison system, though reformers desired clear lines of sight into the tanks, these were not to be. Instead, Texas and other Southern prisons maintained modes of control that harkened to slave overseers more than they did to Bentham’s Panopticon.

¹² Noted prison reformer Austin MacCormick repeated time and again that the lack of visibility into the tanks, their overcrowding, and the failures of the spatial organization of the prison (according to the

The Building Tender system might be understood as an “officially unofficial” delegation of authority. While the earliest dates of the Building Tender system are difficult to ascertain with precision, it lasted at least from the early 20th century through the 1980s, when it was officially dismantled under court order from federal judicial oversight, and when mere incarceration in a Texas prison was ruled as cruel and unusual punishment. Building Tenders (BTs) were similar to those prisoners known as “trustees” or “trusty-shooters” in other state prison systems across the South, as in Arkansas, and Mississippi, where they were armed and authorized to shoot escaping prisoners, and who frequently oversaw prisoners working in fields. Trusty-shooters were frequently some of the most violent prisoners in a certain prison wing or on a prison farm.¹³ Official minutes of the Texas Prison Board rarely mentioned Building Tenders – they seldom surfaced at that level of administration, operating at a nearly invisible level of state authority. However, in 1937 some of the more progressive members of the Prison Board moved that BTs should no longer be armed with “dirks and other knives” for maintaining order, though they would still be permitted to carry clubs.¹⁴ This change hardly mitigated the violence meted out by Building Tenders on other inmates. After a 1938 Grand Jury investigation of the death of prisoner L. C.

modernist aesthetic of individual cells) would continue to reap a harvest of brutality, self-mutilation, and deviant sexuality. All of these were part of the Building Tenders’ domain.

¹³ On Mississippi’s trusty-shooters, see Oshinsky, *Worse than Slavery*, esp. 140-150.

¹⁴ As in other prison investigations through the 20th century, reformers thought that punishment should stop at a prisoner’s skin, but should never break it. A club could beat a prisoner into submission, but a knife or dirk would enter a prisoner’s body. When reformers tried to limit the whips guards used in 1913, they did so because they wanted the surface of the prisoner’s skin to remain inviolate. March 1 and April 12, 1937 Texas Prison Board Meeting Minutes, TSLAC, Box 1998/038-8, Folder: Minutes Sept 1936 – July 1937. Documents of the Texas Prison Board, Minutes and Meeting Files, June 1927 – December 1941.

McBride on Darrington Farm, a farm for young black first offenders, the Foreman of the Grand Jury lamented the “condition within the prison that permits acts of brutality between the prisoners and building tenders. It is our hope that this condition can be improved and such acts as unnecessary beatings by the tenders can be stopped or at least lessened in brutality.”¹⁵

In his memoirs of life on black Texas prison farms, Albert Race Sample described BTs as “the policemen of the tanks.” BTs “received preferential treatment and were privileged to possess overt weapons.” Furthermore, he wrote, “Under the guise of enforcing the ‘rules,’ their brutal behavior was tolerated by the officials. Their gang rapes, beatings and harassment of the weaker cons were ignored and their versions of ‘what’ happened in the tanks were readily accepted.”¹⁶ Indeed, BTs had access to better food, and, in managing the day-to-day upkeep of the tanks, had easier work assignments than prisoners in the fields. Building Tenders were afforded a significant measure of fear and respect – a manifestation of symbolic capital – from guards and other prisoners. At its source, the source of Building Tenders’ authority was sexual violence.

The 1938 Grand Jury Foreman’s hope that “unnecessary beatings by the tenders can be stopped” remained largely unfulfilled. In fact, as beatings and maimings continued along with the low budgets of the Depression, by 1940 fiscally conservative

¹⁵ March 7, 1938 meeting, Texas Prison Board Meeting Minutes, TSLAC, Box 1998/038-8, Folder: Minutes Jan – May 1938: Documents of the Texas Prison Board, Minutes and Meeting Files, June 1927 – December 1941. The same meeting recorded that they would also investigate the killing of Ernesto Garcia by Liborio Garza at the Blue Ridge State Farm on Feb 18, 1938. If the results of that investigation were recorded, they are not in the TSLAC with the rest of the prison papers.

¹⁶ Albert Race Sample, *Racehoss: Big Emma’s Boy* (New York: Ballantine Books, 1984), 164-5.

members of the prison board even debated whether or not Building Tenders' or other prisoners should be armed with guns and rifles to work as guards. Replacing guards with prisoners would effectively cut costs "of the taxpayers of the State," and members of the Board had toured prisons in Louisiana, Arkansas, and Mississippi, where "this practice is in vogue." Despite the Texas Attorney General's decision that such a practice was illegal, the Board remained split as to whether or not to use firearm-wielding convicts as guards.¹⁷

When inmates arrived in Texas prisons, they needed to quickly orient themselves to the power dynamics in which they were now embroiled. Those who were unwitting entrants, who had not listened closely enough or had discounted the stories inmates entering the prison came from. And though they have become almost cliché in popular culture, the reality of sexual violence came from an all too powerful reality. While "queens," kids, or punks in California were able to exert some authority based on their sexuality, records in Texas are less vocal about queens' power. Instead, the records of sex that remain were more an expression of violence and domination than of negotiation or consensual pleasure. R. Craig Copeland conducted an interview with a prisoner, who described his arrival in the tanks at a Texas prison farm:

The day I got to the farm the Warden looked at me and said "number two wing." That is all the warden said to me until he transferred me out. When I walked into Number Two Wing, a convict who was about twenty-five years old named Billy the Kid walked up to me and told me, "As long as you stay in this wing I take care of you." I did not know what he meant at first, but I later found out.

¹⁷ April 2 1940 meeting; Nov 24 1940, Special Meeting. Texas Prison Board Meeting Minutes, TSLAC, Box 1998/038-8, Folder: Minutes Jan – Sept 1940. Documents of the Texas Prison Board, Minutes and Meeting Files, June 1927 – December 1941.

The first night he came to my bunk before the lights went out and bragged about the fights he had had, and showed me his weapon. It was a piece of lead and was rolled to fit the inside of his hand. He carried it in his pocket all the time. About two weeks after the Kid had been playing with me, he came to my bunk one night after the lights were out and said, "Let's go," and just walked away. I didn't go with him and when I looked up I noticed the Kid and the Building Tender had exchanged bunks and the bunk had a sheet draped over it, like a tent. The Kid came back and cursed me, hit me in the back with his fists, and told me he meant business. I followed him because I was afraid of what he might do. That night he committed an act of sodomy on me and from that night on I was known as "Billy's Punk."¹⁸

Though Billy the Kid was not Number Two Wing's Building Tender, it was clear to everyone in the tank that Billy and the BT had reached an agreement, that the explicit "exchange" of their beds must have been a quid pro quo of some other sort of offering. As a result, the BT agreed to let Billy sexually and violently dominate this prisoner. Billy and the BT were in some collusion over the conditions of life in the Number Two Wing. And every bit as significant, the prisoner who was subject to sexual violence had little interaction with official state representatives. He only met the Warden on his first and last days on the farm – other than that, he was largely in the hands of Building Tenders, their associates, or the lesser guards in the system who directly oversaw his labor.

Sample recounted numerous stories about Building Tenders. In one, a BT named Big George engaged another inmate in quiet conversation, whom Sample overheard telling Big George "I don't play that shit." Sample hinted that the man was refusing Big George's sexual advances. Shortly afterwards, Big George struck the same

¹⁸ Copeland cites "Stone, 16, 1974," but the reference is not in his bibliography. It was likely from an interview that Copeland conducted. Copeland, "The Evolution of the Texas Department of Corrections," 63.

man across the back with a chain. In Sample's writing, the attack was in retaliation for turning Big George down. Big George later took the prisoner to the guard for punishment, and explained that the prisoner had created a disturbance. "Since it involved a Building Tender, no questions were asked."¹⁹ To the extent that this prisoner was officially disciplined in addition to the beating Big George gave him (for example, if he was hanged by his handcuffed wrists, or if he lost good time toward parole), Big George used official state mechanisms for his own sexual pleasure and domination.

However, violent sexual domination – as a means of guaranteeing authority – was only effective as long as it could be sustained. In January 1943 five inmates overpowered and killed a Building Tender on Harlem Farm Camp #1, a supposedly rehabilitative camp for young, white, first offenders.²⁰ Though this BT was killed, the Building Tender system nevertheless remained in place.

Albert Race Sample told the story of two prisoners, one named Ol Bull, and another called Dumpling, on the Retrieve Farm. Dumpling was a young prisoner sent to the Retrieve Farm rather than to a farm for younger prisoners. The Captain paraded him before a number of Building Tenders, who acted "like a bunch of dogs over a bitch in heat," shouted obscenities at the new prisoner, and begged the Captain to let them have the new young prisoner in their tank. The Captain offered to let the new prisoners choose which tank he wanted to go to, making Scylla and Charybdis seem an easy

¹⁹ Sample, *Racehoss*, 157.

²⁰ January 25 1943 letter from Mr. and Mrs. A. C. Smith to Governor Coke Stevenson. Stevenson Box 4-14/136, Folder Texas Prison System 1943, TSLAC. In its effort to paint a progressive image of the prison system, the *Official Program Souvenir of the Prison Rodeo 1942* describes the Harlem Farm Camp #1 for young white rehabilitative prisoners. TSLAC, Box 1998/038-404, Folder "Official Program Souvenir of the Prison Rodeo 1942," no pagination.

decision. When he replied that it didn't matter, the Captain taunted him further, making sure he knew whoever he chose would brutalize him: "You mean it don't matter who fucks you in yore ass?" It was no secret, and in fact there was explicit collusion by guards, when Building Tenders sexually dominated prisoners in their tanks.²¹

Ol' Bull, armed not just with daggers but with official recognition by the state, enslaved and forced Dumpling to fellate him nightly. Long after the rapes had begun, and when other prisoners were bored with the repeated practice, Dumpling used a razor to cut off Bull's penis. Bull, as a Building Tender, had previously had respect from guards, but when he stood naked, dripping blood and pleading with the picket boss to get him a doctor, Sample described that the guard yelled at Bull to shut up and quit spraying blood on the floor. Ol' Bull was no longer the Building Tender who wielded violent authority and subsequent symbolic capital, but, in Sample's rendition of the guard's language, was just "this ol' nigguh wit his dick cut off." On the phone with his superior, the guard continued, "Cap'n, kin ya'll hurry? This sonuvabitch is ableedin all over everthang."²² With his penis cut off, disgraced, disarmed, and emasculated, Bull was now worthless for maintaining disciplinary authority. Violent masculinity, the centrality of the Building Tender's penis and his capacity to inflict pain, was the basis of his privilege within and his disciplinary function for the Texas prison system. Without them, in the world of the prison, Ol' Bull shrank to almost nothing. And Dumpling, though punished for his own violence by losing good time toward parole, didn't get bothered by other inmates anymore, even though he had once been marked as

²¹ Sample, *Racehoss*, 163.

²² *Ibid*, 166-7.

a “galboy.” He had, in Sample’s words, “earned his right to sleep in hell.”²³ The capacity for violence, and especially violence that was linked to sex, fostered power as a relational mode of gendered and sexual domination. This, along with tobacco, tooth powder, commissary goods, and bragging rights over gambling and debts, were the currency of exchange and inequality on Texas prison farms.

The violence that prisoners meted out on each other in Texas and California, especially sexual violence, was horrific. While not an everyday occurrence, fighting was common enough to always be a threat, and prisoners needed to be on guard from each other. Inter-prisoner violence was, and remains, all too common in Texas and California, though the nature and practices of violence have changed in recent years. Nevertheless, numerous cases of punishment of prisoners in Folsom and San Quentin were for possession of knives or sharp instruments. There are also a great many cases of prisoners being punished for “slashing another prisoner across the face.”²⁴ It appears that prisoners fought frequently, over matters of pride, prestige, commissary goods and to minimize their labor. Sample described that prisoners at work in the cotton fields would steal cotton from other prisoners’ bags, so they wouldn’t have to pick as much to make their task for the day. They fought as a result, or from the accusations.²⁵

California’s Folsom Classification Clerk Lyle Egan compiled a document entitled “Escape Hideouts & Attempts, Stabbings & Assaults, Suicides & Attempts, Food Strikes By Prisoners of Folsom Prison, 1927—1943,” whose 119 entries,

²³ Ibid, 170.

²⁴ See, for example, San Quentin Board of Prison Directors Minutes, 1931, CSA, Department of Corrections Records, F3717:1006.

²⁵ Sample, *Racehoss*, 176.

compared to even a cursory examination of punishments listed in Prison Board Minute books, was surely incomplete. July 1932 was by no means atypical. In terse and matter of fact tone, Egan described the conditions:

JULY 12th: prisoner No. 16266 MARRATTO slipped into No. 13849, SUMMER'S cell and attacked him with a knife. Summers died from wounds on July 20th.

JULY 18th: No. 17069, MARSH cut No. 17332, NEELY with a knife; not seriously. He also attacked No. 15102, SILVA with a knife at the same time; wounds not serious. No. 17800, AZER attempted suicide by cutting wrists with knife.

JULY 28th: No. 14684, GAINES cut on left side of neck below the jaw by unknown person during a fight over a game of quoits in the Upper Yard.²⁶

Nor was there a shortage of ethnoracial violence among prisoners. Folsom inmate Wesley Robert Wells described a fight between two cliques of prisoners, black and white, because a white prisoner called New York Red owed Emory Hudson, a black prisoner, some money. The fight turned into what Wells called a “free for all,” in which Hudson was stabbed and killed, and for which Wells was punished.²⁷

On other occasions, racial hatred was enough to fight, and even kill over. On November 21, 1939, Walter Martin killed a prisoner named Harry Wendroff in a fight in San Quentin’s general mess hall.²⁸ The mess hall itself was an impressive structure. Built to hold 3,000 prisoners at a time, it had a red tile floor, six feet of white tile wainscoting for easier cleaning, and buff colored plaster rising up twenty feet to the

²⁶ Lyle Egan, Clerk, State Board of Prison Directors, “Escape Hideouts & Attempts, Stabbings & Assaults, Suicides & Attempts, Food Strikes By Prisoners of Folsom Prison, 1927—1943,” Earl Warren Papers – Administrative Files -- Corrections -- Governor's Prison Committee -- Folsom State Prison, 1942 - 43 Folder 15, F3640:986. CSA. This was a limited reckoning of the actual incidents of violence and attempted escapes.

²⁷ Wesley Robert Wells, *My Name is Wesley Robert Wells*, Foreword by Buddy Green (San Francisco: State Defense Committee for Wesley Robert Wells, 1951), 7.

²⁸ The description of Wendroff’s death comes from San Quentin Board of Prison Directors Minutes, 1938-9, December 2 1939, pp 241—243. CSA, Department of Corrections Records, F3717:1009.

ceiling's exposed steel trestles. All the tables and seats faced the same direction.²⁹

Because of their jobs as waiters and flunkies, Wendroff and some 60 other prisoners were eating apart from the main line, so that they could serve the rest of the prisoners at mealtime. The circumstances of the fight are murky. One story ran that there was not enough cornbread to feed all the prisoners. Walter Martin, a waiter, had been directed by Con Boss Virgil Money to distribute the remaining cornbread to tables of inmates in a specific order, and Wendroff was apparently among the last served. Con Boss Virgil Money called Wendroff a "chronic complainer," explaining the fight as a simple matter of too many people and too little cornbread.

The consensus among the inmates – at least what they told investigators, and this would almost certainly have been a limited telling given the general prohibition to snitch on another inmate – was that Wendroff and Martin exchanged words and then blows, and that in the midst of the fight Wendroff suddenly slumped to the floor. Prisoners administered wet, cold cloths to Wendroff's head and neck, but he soon died of a cerebral hemorrhage (apparently without receiving a blow to the head). While Virgil Money and Walter Martin were adamant that the fight was over cornbread, other prisoners' stories revealed white supremacy as the cause of the fight.

Racial tensions were apparent in the altercation, and indeed, it seems as if the fight had more to do with racial supremacy than with the allocation of scarce food resources. A number of inmates described Walter Martin as a "Jew-hater," and Harry Wendroff was Jewish. Indeed, it seemed that Martin was very much in the "habit of

²⁹ The mess hall is described in Robert Joyce Tasker, *Grimhaven* (New York and London: Alfred A. Knopf, 1928), 15.

attempting to glorify himself at the expense of Jewish inmates.” The psychological wages of Martin's whiteness were clear, as he tried to elevate himself through repeated incidents of what investigators called “racial and religious antagonism.” A Jewish witness named Goldsmith explained that the fight wasn’t over cornbread at all, but was indeed a racial incident. Though Goldsmith and Wendroff were “not particularly friendly” with each other, on the day of the fight Martin had called Goldsmith a “black Jew and a Jew rat.” Goldsmith explained that he didn't want to fight with Martin (due to an injured finger), but that Wendroff had risen to fight. In the melee, Wendroff either fell to the floor and struck his head – perhaps the fatal blow – or was struck in the head, possibly with a pipe or other weapon that was never recovered.

Significantly, San Quentin physician Dr. Stanley's autopsy revealed that Wendroff's stomach contained, among other things, a good deal of cornbread. The fight was clearly not about food, but was rather about racial privilege and subordination, in which Con Boss Virgil Money and anti-Semite Walter Martin collaborated in whitewashing the racial murder of Harry Wendroff. All of the prisoners, Jewish and Gentile alike, suggested that Wendroff had been killed by the floor rather than by a fist, club, or weapon. When they did so, they effectively exonerated Martin from prosecution. Thus, prisoners could uphold the "convict code" whereby prisoners did nothing to aid administrators against inmates. Conversely, it was entirely possible that Wendroff had indeed been accidentally killed, striking his head on the floor. In any

case, no formal charges were pressed against Martin. In the face of contradictory evidence, the prison board did not think it could get a conviction.³⁰

Racial violence sometimes had to do with money, sometimes it just had to do with racial hatred. Sometimes it had to do with sex and ownership of a "queen's" sexual favors. While there was a litany of reasons for racial violence, just as there was for any sort of violence, racial violence was always inflected with the meanings and re-inscription of bodily difference and racial hierarchies. Whether it contested or solidified the racial order, it made for a qualitatively specific kind of violence, reifying differences and distinctions based on the ideologies of racism. Just as sexual violence reinscribed sexual hierarchies of penetrating men and violated women, associated with and produced by sexual difference.

Literary Critic Adam Gussow's research on violence in blues culture offers an additional, psychoanalytic explanation for prisoners' violence, and especially for violence within racial groups, rather than between them as an assertion of racial supremacy. His analysis of southern violence in blues culture and jook joints suggests that subaltern, interpersonal, African American violence was the result of thorough alienation and a response to the traumatic experience of witnessing or being always threatened by lynching. Drawing on numerous trauma theorists, Gussow argues that inflicting violence on another person - especially leaving a scar on someone else - was a way of writing on someone else's body in the way that one felt to have been written on

³⁰ San Quentin Board of Prison Directors Minutes, 1938-9, December 2 1939, pp 241—243. CSA, Department of Corrections Records, F3717:1009. Wendroff's prison number was 63787, Martin's was 62897, and Money's was 63272.

themselves. And, he sees interpersonal violence in jook joints, and here, in prisons, as resulting from an enforced silence and racial subordination in broader society, so that imposing physical violence on someone else became a way of valorizing and validating oneself. This was the significance and meaning of “slashing someone across the face” – a visible mark to be publicly seen and read. If Gussow is correct in his assessment, the pervasiveness of inter-prisoner violence – be it officially sanctioned or not – was a way of narrating the traumatic impact of incarceration (but of Jim Crow racism and class exploitation more broadly), and thus making the trauma legible.³¹

Inmate author Robert Joyce Tasker expressed a similar theme from San Quentin in 1928, and described that prisoners came to hate each other, precisely because they hated the institution of which they were a part. “I, too, hate my fellow convict, and am, in turn, cordially hated. It is not because of any particular blemish in my body or character, but because I am irrevocably an integral part of the prison.” He continued, “The convict must hate prison and all in it; therefore, he cannot bring himself to throw in his lots with those he hates. There can be no unity in prison, but merely dissension. There will be no organized attempts for unlawful freedom; riots will come only when the indignities transcend the individual’s natural prejudice against those with whom he must join forces.”³²

³¹ Adam Gussow, *Seems Like Murder Here: Southern Violence and the Blues Tradition* (Chicago: University of Chicago Press, 2002), 195-232, 209-210 esp. Prisoners were commonly slashed across the face. The first two episodes of violence that Robert Joyce Tasker describes in his memoir *Grimhaven* were of face slashings. In the first, two Mexican prisoners fought over a “beautiful Spanish boy,” the loser running to the hospital with bleeding from a “brilliant cross from ear to chin, and from eyes to jowl.” In the second, a slight man attacked another who had robbed him of a ration of sugar, and left a “six-inch gash in his face.” Tasker, *Grimhaven*, 45, 57.

³² Tasker, *Grimhaven*, 124.

Prisoners' violence against other prisoners expressed their own social, economic, and political disempowerment, but did so in a way that inscribed new traumas and dominations on their peers, deepening universal antagonism and alienation and mitigating against community formation against their keepers. And not only were the cut and the wounded traumatized by prison violence, but so too were the victors of each fight. If they avoided punishment for their acts, they could not escape the dehumanizing knowledge of the suffering they produced, even if they felt it was justified. Upon release, the accustomed practices of violence would be more likely to land them in prison, but for a longer term, again. When prisoners fought with each other, they embodied a certain type of penal disorder. But that disorder was itself useful to state authorities, because it meant that prisoners were divided among themselves. It meant that they weren't fighting against guards. The surprise was not that prisoners fought so much, but that they ever worked together, and created the moments of humanity that they did.

Covert Markets and Commodity Exchange

Prisoners gambled, stole, and traded for goods behind bars. Though gambling was officially forbidden by penal authorities, it was nevertheless rampant, and most guards found better things to do when they heard dice clicking off a cell wall or saw a card game among bored prisoners. Just as numbers runners in cities based the numbers on the last digits of the days' stock exchange, so too was the prisons' unofficial economy based upon the official order. When inmates at the San Quentin Little

Olympics cheered for their team to win the tug o' war, they did so not just out of support for their affective community of teammates (see Chapter 5), but because thousands of dollars of tobacco was riding on the event.³³

In his 1928 San Quentin memoirs, Robert Joyce Tasker described the exchange rates behind bars, and their connection to the official economy run through the commissary. Indeed, it wasn't long after he arrived in San Quentin that he had been "initiated into the art of conniving," making his way through the prison's covert economy where cash was contraband and other goods – especially tobacco – became the functional equivalent of cash. Just as a ration of sugar was worth a pouch of tobacco, he explained the exchange rate in detail:

The chief medium was tobacco. Soap and toothpaste were common tender; one bar of soap or one tube of dentifrice commanding two sacks of weed in exchange at all times. Writing-tablets brought the same. A pack of envelopes—one sack. Those staples, with a few others, formed the nucleus of our fiscal dealings. Tobacco was the inflexible standard—the gold in reserve.³⁴

At other times, prisoners used pens or candy as an element of exchange, in gambling or in other transactions that constituted the prison market. Writing under the name Roark Tamerlane, one prisoner explained, "Gambling and conniving were once so widely rampant that it was not safe to walk through the Big-Yard with candy or other eatables(sic). ...Pen sets were formerly the medium of exchange for the element that

³³ Jack C. Patrick, *The Little Olympics Scrap Book*, Vol. 1, 1933-1941 Inc., The Olympic Club Records, Lakeside Club, San Francisco, CA. According to one caption in the scrapbook, , "More than \$10,000 is wagered on the outcome [of the tug o' war]; in candy and tobacco, that is." No page number.

³⁴ Tasker, *Grimhaven*, 59. The tobacco-sugar exchange rate is mentioned on page 57.

call themselves 'sports.'"³⁵ They used tobacco, tooth powder, shaving soap, matches, and safety razors as goods to trade and gamble with.³⁶ According to his 1940 sociological study of prisoners, Donald Clemmer wrote that "Like physical courage, gambling skill is a value held in considerable esteem."³⁷ Prisoners played poker, another game for two players called coon-can, and rummy. Clemmer continued, "Of gambling on baseball there is no end. Every type of wager conceivable is made on major league games." Batting averages, the number of strikes or balls in an inning, and the wins or losses and a season all were up for grabs. Prisoners played dice when they could, either smuggling them in or making their own, "ingeniously fashioned out of various materials."³⁸

If a prisoner couldn't win something by luck or skill, they might be able to buy it outright – if they had enough cash. In this regard, friends on the outside – family members, especially, with money to spare – could help a prisoner survive. Of course, this shifted much of the burden of incarceration onto prisoners' wives, girlfriends, and families, in order to subsidize their incarceration. Not all prisoners were so lucky as to have people on the outside to support them, especially in the Depression years.

³⁵ H. Buderus von Carlshausen, aka Roark Tamerlane, "America! -- add stars to our stripes," 18. Manuscript archived at CASL California History Room, 365 C284,.

³⁶ William J. Ryan Testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, 645. CSA, Earl Warren Papers -- Governor's Committee on Penal Affairs -- 1943-44. F3640:958. On items prisoners gambled with, also see Donald Clemmer, *The Prison Community* (New York: Holt, Reinhart and Winston, 1968 printing of the 1958 Edition, originally published 1940), 240.

³⁷ Clemmer, *The Prison Community*, 239.

³⁸ Ibid, 240. Clemmer also suggested some of the rationale for inmates' betting in prison: "In a sense, gambling is an escape mechanism, like drinking. Gambling, whether the player wins or loses, is a means of keeping the personality keyed up; it serves as a hypodermic with an emotional kick. Betting also provides men with commodities in the form of luxuries which have a great worth for the prisoners. Men gain status, to some extent, by being known as shrewd gamblers." *The Prison Community*, 240.

Nevertheless, one prisoner wrote to a California investigator in 1943 that money could buy almost anything in the prison. With a few dollars, the official hierarchy could be upended. According to one inmate,

If I decide I want a cell move, and I put \$5 into the hands of the right people, I get the move. Otherwise, either I stay where I am, or get another filthy cell. The same thing applies to getting a job. A little money in the right place will buy any job in the institution. It makes no difference whether I am capable or not. I can also buy my way out to a forestry or harvestry camp.³⁹

Though cash had been the universal medium of exchange – risky because it was contraband – food was also always valuable. Another Folsom prisoner explained that “The hill gardens inside the walls could be a continual source of food for the main line. Instead of this, however, they are all private enterprises. Melons, onions, lettuce, and so forth, are raised by the ton and sold by the inmates to other inmates.”⁴⁰ Illegal, “black market” exchange was very much the norm, so much so that it wasn’t safe to eat candy in the yard for fear that it would be stolen. In point of fact, a transaction only became “corrupt” when it was identified as such by investigators, or by the prisoners who were cheated or violated in the process. Otherwise, this was simply how the penal world operated.

Some guards tried to develop their own systems for preventing prisoners’ corruption. Captain Joseph H. Fletcher, Captain of the Yard at San Quentin, had even

³⁹ Quoted by Investigator Alco, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, p. 633. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

⁴⁰ Quoted by Investigator Alco, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, p. 633. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

made his own stamp to differentiate authentic from forged documents. But prisoners had made very accurate copies of his stamp.

They can make anything. Stamps don't mean anything. Signatures don't mean anything. Keys don't mean anything in the prison. You can go in there and lock something or other, and in half an hour there will be a dozen keys just like it.⁴¹

Fletcher also described rampant drinking, gambling, and sex:

Well, of course, so far as gambling and degeneracy and drinking homemade hootch is concerned, in my opinion, as long as we have jail houses like this, we will have that going on. We can do everything that we can to prevent it, but at the same time, we know that it goes on.⁴²

Clearly, guarding prisoners was an aggravating and frustrating occupation. And many guards knew too well that corruption was rampant within the prison, and that some prisoners did all too well for themselves. Those who controlled the kitchen could get their friends an extra steak while main line prisoners had to eat what they called “jute balls” instead of meat balls because so little meat made it into their diets. One prison worker testified that the milk the main line prisoners got was very watered down, and, in his words, had a lot of the “American River in it.”⁴³ In Texas one of the farm cooks could reportedly smuggle pork chops and steak sandwiches out of the guards’ kitchen by hiding them in his underwear, where few guards would willingly search.⁴⁴

⁴¹ Capt Joseph H. Fletcher, Volume VI: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, pp. 1356-7. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:961.

⁴² Capt Joseph H. Fletcher, Volume VI: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, p. 1358. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:961.

⁴³ C. H. Daseking testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958. The reference to “jute balls” is on 598, and the reference to river water instead of milk is from 607. The American River ran next to the Folsom prison.

⁴⁴ Sample, *Racehoss*, 158.

California's penal economy allowed for certain inmates to emerge as skillful manipulators of the prison market, mobilizing the many forms of social and economic capital behind bars for their own advancement. Certain prisoners, thanks to their political acumen, charisma, personal connections, or job in the prison, developed effective conceptual maps of prison power structures and markets, and were able to exploit them for their own gain. When they did so, they often did with the collusion of the prison system itself.

Con Bosses: Politicians, Productive Economies, and Personal Gain

Inter-prisoner violence in California was widespread, but it was not the foundational capital on which official and unofficial hierarchies functioned. Instead, the most important prisoners in California's prisons, known as Con Bosses, drew their authority from their position in the prison's productive economy and their ability to navigate the covert market in commodity exchange. Con Bosses managed various prison shops at San Quentin and Folsom, such as the shoe shop, the clothes shop, or the jute mill. Instead of trading blows, they traded shoes, steaks, cigarettes, and good time toward release.

In a 1933 publication one San Quentin prisoner defined a con boss as "an inmate at the head of a department...usually appointed for superior knowledge and experience.... [A] man who watches over all the work."⁴⁵ Con Bosses thus maintained control on the state's behalf, earning a degree of personal control in the process. Like

⁴⁵ Hal Eble, "Ye Olde San Quentin Printe Shoppe," *The Bulletin*, Jan 10, 1933, 19-20. CASL Government Publications.

Building Tenders in Texas, they worked at the state's behest. W. H. West, a "free" worker in charge of the laundry facility at Folsom, explained how the Con Bosses fit into the productive mechanisms at Folsom. It just made good sense, he reasoned, to delegate authority to certain "key men."

Well, I will tell you: running a gang of men like this, is more or less the same as running them outside.... In any laundry, every department has to have somebody that you have to hold responsible, and once you get a crew that you have a little amount of dependence in, you will have a pretty smooth working crew, because they will keep the others working, and they will keep the stealing down to a minimum....⁴⁶

Con Bosses would keep theft to a minimum – or more likely, regularize it under their control and therefore make production predictable. Nevertheless, many keepers felt that theft in the prison was inevitable. "As far as theft is concerned, there will always be theft. You can't stop it...."⁴⁷ In a repressive system that relied on the obedience of selected overseers as well as on the repression of other, creative people, subversion would be contained as much as possible into manageable paths.⁴⁸

Though Con Bosses worked directly under guards and paid managers, they exercised significant autonomy in serving their own self-interests. Occasionally Con

⁴⁶ Testimony of W.H. West, Laundry man at Folsom, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 670-685, esp. 679. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

⁴⁷ C. H. Daseking testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, p. 586. CSA, Earl Warren Papers -- Governor's Committee on Penal Affairs -- 1943-44. F3640:958. Prison officials were very much like antebellum slavemasters in this regard: prisoners, like slaves, always stole to some extent. While Michel Foucault might have called this a "tolerated illegality," and Edward L. Ayers described slave theft as a matter of little antebellum concern, I agree with Peter Linebaugh's more explicit assessment that the new naming and policing of an illegality – a new criminalization – signaled a transformation in the political economic regime. In California, the crackdown on the Con Boss system emerged from wartime, and specifically Republican's, fears of corruption and governmental disorder, who used the scandal as a means of political maneuvering. See Ayers, *Vengeance and Justice*, 105; Foucault, *Discipline and Punish*, 82; Linebaugh, *The London Hanged*.

⁴⁸ Goffman, *Asylums*, 180.

Bosses could come to understand the extent of their authority and their importance in the prison system, and they could get out of control. West testified about one time when a Con Boss did seem to get to be too powerful for the good of the prison:

Big Slim Hale. He has practically built this institution. He has been a con boss all his life around here. He is very capable. He has built practically all these buildings in this institution. Some 22 years I think he has been around here, in and out, and I would say that he was an exceptionally good pusher, as we call them, but I do think that at times he got out of hand. I had to step on his hands several times, because I thought he was going too far, and he always calmed down and got right in place again.⁴⁹

Hale's relationship with West, then, was one of constant renegotiation on how they would share power in the prison's administration and its productive capacities. Yet it was all too clear that Hale's "pushing" ability did little for those he pushed, and for the ways in which he worked as something of an overseer or straw boss in the prison. Con Bosses who pushed too hard might upset the smooth equilibrium of consent, fear, and boredom. When they began to "push" against guards, they provoked antagonism and crisis within the system itself.

One prisoner made the hierarchy among prisoners clear. A Folsom prison nurse known simply as Blackie reportedly stole Pheno-barbital from the prison hospital and sold it to any prisoners who wanted it.⁵⁰ At other times, when he was supposed to give injured prisoners injections of morphine for pain, he would keep the morphine and give them a shot of some worthless substitute. Blackie thus literally profited from other

⁴⁹ Testimony of W.H. West, Laundry man at Folsom, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 670-685, esp. 684. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

⁵⁰ Blackie's real name may have been Wilford Plouffle, from San Joaquin County, serving 9-14 for writing bad checks, who was employed in the Hospital and removed from Folsom during the 1943 investigation.

prisoners' pain, while selling or using morphine – itself a source of alienated escape and self-destructive pleasure – in the prison's covert market.⁵¹

But guards could be every bit as frustrated as prisoners denied their medicine, perhaps even more, because they felt they deserved real respect from prisoners. Martin Eng, who began working as a guard at Folsom in 1929, explained that patronage and favoritism were prevalent among the guard force, not just among prisoners and Con Bosses. A few years earlier his shift had been changed, and he was put on the second watch. This was effectively a demotion, and guards' labor assignments operated as a mode of reward or punishment no less than they did for prisoners. Eng testified that a guard who was not "in" had no authority at all. Like many of the guards who felt disempowered by the particular patronage regime at Folsom, Eng felt relatively powerless over inmates: "Well, it is getting to the point where a guard almost has to take his hat off for an inmate."⁵² This may have been the case for unconnected guards toward connected prisoners, but the fear was certainly overstated.

The power structures came to public light in an investigation beginning in 1943 when reporters learned that a prisoner named Lloyd Sampsell, assigned as the cook at the Straloch Farm harvest camp near Davis, California, had been making weekend trips

⁵¹ On Wilford Plouffle and for a list of alleged Con Bosses moved to San Quentin during the 1943-44 investigation, see "Secret Folsom Probe to Run Extra Day" in the December 12, 1943 Sacramento *Union*. Archived in the CSA Earl Warren Papers – Administrative Files – Corrections – Governor's Prison Committee – Newspaper Clippings (Folder 24), 1943-44, F3640:994. For accusations about Blackie's medical maltreatment, see the testimony of Paul Whiteman, Folsom Prisoner #29292, Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 362-367. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:957.

⁵² Martin Eng, Folsom Guard Testimony, Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 307-311. The quotes are from pp.308, 9. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 43-44. F3640:957.

to see his girlfriend in San Francisco. As the scandal developed, Folsom Warden Plummer made (and surely regretted) numerous excuses for Sampsell, explaining that Sampsell had just been taking “French leave” from the prison camp for the weekend, but that he was always back by Monday morning.

Over the course of the investigation, in which the public learned about harvest camp prisoners’ access to alcohol and the ease of their escape, it became clear that Sampsell was a powerful man in Folsom’s officially unofficial power networks. Known as the “Yacht Bandit” for his gang’s use of a yacht as a hideout after a series of robberies along the West Coast in the 1920, Sampsell eventually worked himself well up in the Folsom economy. According to Albert Mundt, Sampsell had been able to sell himself to the Warden, and eventually, as the Con Boss in charge of the education department, he "had the freedom of the institution." No guards ever confronted or challenged Sampsell, "because he was known as one of Plummer's men, and came and went as he pleased...."⁵³ Sampsell’s authority was both charismatic, as well as located in his ability to organize and locate himself in covert networks of favors, gifts, and punishments.

Though Lloyd Sampsell was quite powerful, Mundt identified Burroughs McGraw as Folsom’s "con king." According to Mundt, McGraw could "subject guards to his control and to his orders, and guards were definitely fearful of McGraw's

⁵³ Albert H. Mundt testimony, Volume V: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 935-965. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:960. Both quotes are from p. 946. On Lloyd Sampsell as the education department con boss, see Testimony from Osborne, p. 3., CSA Earl Warren Papers -- Administrative Files -- Corrections – Governor's Prison Committee – Confidential Witness (Folder 11), 1942-44. F3640:982.

influence."⁵⁴ Perhaps an indication of McGraw's power was that Sampsell, rather than himself, became far better known in the public eye and in the 1943-44 investigation. It was reputed that McGraw could even get an early release for selected prisoners. However, in confidential testimony to the Alco Investigating Committee, a former guard named Osborne explained that "McGraw is just a tool" for another prisoner named Sheldon, the Con Boss who ran the Print Shop.⁵⁵ The webs of deception, interpretation, understanding and misunderstanding rendered that actual functioning of power opaque. Members of the investigating committee were unlikely to get to the bottom of it, to have a full diagram of power relations. But this is unsurprising, considering the overlaps, contradictions, shifts and reversals in these networks.

Burroughs Madison McGraw had a long history in the California prison system. Described as "an expert forger" in the Los Angeles *Times*, he was arrested when he was nineteen, in 1923.⁵⁶ He was in and out of the prison system through the 1940s, and ascended to a high rank at Folsom. He was reputedly "arrogant in his contacts with the free personnel, and impulsive and overbearing with the prisoners" while assigned to an outside camp – itself a privileged position in the penal system. McGraw further "constantly posed as an intimate and personal friend of the Warden and has sold the idea to the prisoners to such extent that many of them believe[d]" that he could – and

⁵⁴ Albert H. Mundt testimony, Volume V: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 935-965, esp. 947. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:960.

⁵⁵ Testimony of Guard Osborne, p. 3. CSA, Earl Warren Papers – Administrative Files -- Corrections -- Governor's Prison Committee – Confidential Witness (Folder 11), 1942-44. F3640:982.

⁵⁶ Los Angeles *Times*, March 7, 1923. Archived in Folsom Inmate Case Files, Burroughs McGraw, 22230. F3745:519.

did – acquire good time credits for prisoners. “And he has more or less substantiated his claims by exhibiting many letters of an extremely friendly and personal nature, purportedly from the Warden.”⁵⁷ Whether these were forgeries or originals mattered little; in either case, they effectively placed him well up in prisoners’ hierarchies.

But McGraw’s professional skills also placed him highly in the official prison economy. In late 1942, after being returned to prison for a parole violation, McGraw requested to work in San Quentin’s accountant’s office. W. H. Baxter, the San Quentin accountant, looked on his request quite favorably, reporting to Warden Duffy that “McGraw is a high-class accountant who worked several years in the Accounting Office at Folsom and is familiar with every phase of prison accounting....” Baxter further explained that McGraw’s “industry and conduct while working in the Accounting office at Folsom was highly satisfactory.” He closed his letter to the Warden pleading, “I assure you I am very much in need of experienced accountants.”⁵⁸ But McGraw was not to stay long at San Quentin. Shortly after his arrival, McGraw was transferred to Folsom, quite possibly at the request of Warden Plummer. According to Egan, McGraw was given trustee status as soon as he arrived in Folsom in early 1943.⁵⁹

Folsom’s Warden Plummer and Burroughs McGraw seemingly had a close relationship. Plummer reportedly played cards with McGraw weekly, had him over for

⁵⁷ October 6, 1941 letter from W.B. Albertson, Superintendent of Camp 33F, Keene, CA, to Albert H. Mundt, Assistant Secretary, Board of Prison Terms and Paroles. Archived in Folsom Inmate Case Files, Burroughs McGraw, 22230. F3745:519.

⁵⁸ W. H. Baxter letter to Clinton T. Duffy, October 27, 1942. Archived in Folsom Inmate Case Files, Burroughs McGraw, 22230. F3745, 519.

⁵⁹ Lyle Egan testimony, Volume IV: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, p. 811. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:959.

meals at his home, and once bought him a five dollar hat as a gift.⁶⁰ Prison officials have long made use of prisoners' labor for their own private use, and Plummer was no exception: McGraw did Plummer's personal taxes. In a highly detailed letter from San Quentin, McGraw explained Plummer's different options for shuffling his reported income along with his wife in order to lower their tax payments. He closed the letter on a friendly note: "Sorry it wasn't possible to give you a hand this year. We can't always do what we'd like to do. How are you feeling?"⁶¹

Not only did McGraw have connections with the highest levels of the Folsom prison administration, but it seems that McGraw had a following of his own. Though many despised him (inmate Daniel Forsythe complained he'd been double crossed by McGraw because Forsythe had conned him some eight years earlier in the Los Angeles County jail⁶²), Lyle Egan explained that "McGraw was a man that stuck up for the inmates a lot. McGraw was for McGraw, first and always, but he stuck up for the

⁶⁰ Jack B. Olympius testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958. On meals and playing cards, see p. 697. On the hat as a gift to McGraw, see Fred G. Schoon testimony, auditor in the State Dept of Finance, Volume V: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 921—929. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:960.

⁶¹ McGraw to Plummer, March 2, 1943, from San Quentin. Archived in Folsom Inmate Case Files, Burroughs McGraw, 22230. F3745:519.

⁶² Daniel Forsythe testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 706-716. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958. Forsythe was double crossed by McGraw because in 1936, Forsythe had rigged a bet to eat 18 candy bars in the LA County jail. McGraw had bet \$400 that Forsythe would do it, and Forsythe threw the bet. So, McGraw sold him out to Plummer when he had some evidence that Forsythe was involved in some trickery in the prison. It seems that McGraw had a long memory for being wronged, and this was part of his effectiveness as a "politician."

inmates, and that is why, in my opinion, he would go in there and say these men should get the credits. I mean he was kind of a front man."⁶³

Indeed, prisoners like McGraw and Sampsell, who knew how to operate within the overlapping systems of overt and covert authority – or who, by virtue of their official bureaucratic positions (and these were structured by racial, educational, and class hierarchy), could make out relatively well for themselves. This sort of knowledge of the prison from Con Bosses elevated from the level of a sort of middle manager into a “politician.” Prisoners who could not place themselves within these networks ate the worst food, and drank river water instead of milk. And if a prisoner knew the right people, and had some social capital to bargain with – clothes, money, sex, cigarettes, or accumulated favors to be repaid somewhere down the line – they could even shorten the length of their sentence. Such was the case with Burroughs McGraw.

Lyle Egan, the Folsom Classification Committee Clerk, couldn't exactly identify how McGraw rigged credits for inmates, but he knew McGraw was up to no good. "Well, it is a hard thing to put your finger on any one thing, but I felt that ... if anybody wanted credits McGraw could get them a month or so. I think I know the method in which he operated, because he used it all the time...." When investigators asked if Plummer knew about the credits being given, Egan responded "Yes. He knows of the issuance, of course. I wouldn't say that he didn't know – but politics, as they call it in a prison, is a funny thing, the way it works around." Egan reported that he suspected that

⁶³ Lyle Egan, Volume IV: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, p. 818. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:959.

a prisoner would request a letter from their work supervisor – from Mr. West in the laundry, from Mr. Daseking in the mess hall – that would request a month or six month's worth of credits. "McGraw was smart," and he would have the letter on file in case he was challenged, Egan said. "There is (sic) only a few men here, - maybe five or six, - who will not write a letter for anybody that asks for it."⁶⁴

But Egan admitted that he had no hard proof about what McGraw was doing. Nevertheless, he reported, "I am sure of it in my own mind." Egan said that he first became suspicious when he saw a prisoner serving a full ten year sentence, who had maintained a perfect record. With a perfect disciplinary record and earning good time toward an early release, he should have served 6 years and 6 months and been eligible for parole. But he served the full ten years on his sentence.

And I said "It is a shame when anybody can go out there and work, and nobody pays any attention to him, and they don't get anything, and these other guys,– the politicians,– get everything," and that is what made me boil over... the poor fellow probably didn't know where to apply,...while the other fellows, - if you are a friend of the con bosses, they will be sure that you apply."⁶⁵

If the man had been "in the inner circle, he would have gotten the credits. That is the way I feel about it."⁶⁶ The power that Con Bosses wielded and the patronage networks they mobilized, based on their positions in the prison's productive economy, was every bit about benefiting for themselves. They did little for those prisoners who weren't well connected, or had nothing to offer them. In this, even the subaltern networks of prison authority simultaneously undermined official state power, allowed the prison to

⁶⁴ Lyle Egan testimony, *ibid*, p. 813.

⁶⁵ Lyle Egan testimony, *ibid*, pp. 815-816.

⁶⁶ *Ibid*.

function as a complex institution, while subordinating prisoners based on their relational locations in the political, racial, monetary, and sexual economies. But for prisoners and state representatives at Folsom Prison, all of these were encapsulated in the term “politics.”

Yet “politics” and reform were thought by members of the 1943-4 Alco Investigation to be the remedy for the corruption at Folsom. With the reorganization of the prison administration and centralized bureaucracy, they hoped that the corruption would end. As had many before them, they felt that the institutions were neither good nor evil, but that the men who ran them were corruptible. With an infusion of good and upright men, and with rationalized organization, they believed the nasty prisons would become the correctional institutions they were designed to be. Sadly, this has not been the case. Prisons, designed as institutions of reform, thoroughly slough off attempts of reform and incorporate them into preexisting practices.

Queens: Sexual Capital and Reformist Fear

Queens accessed a quite different source of authority than either Con Bosses or Building Tenders, and they proved to be particularly troublesome for most prison officials. Prison queens’ authority was sexual. Queens – those who sometimes assumed feminine characteristics and roles in sex and behavior – could exchange sex for favors. They were, at times, the subject of violence, but were also to be protected (as property) by prisoners, frequently known as wolves, who claimed their sex for themselves.

Yet queens' authority operated alongside official and covert forms of power. For example, queens frequently made use of their sexuality in order to gain social capital in the prison, in the form of fine clothes or commodities. A California prisoner named Moulin – “one of our noted queens,” according to Folsom’s laundry man – used his sexuality to better his quality of life behind bars. The laundry man at Folsom marveled over Moulin’s silk-lined suit, which, he guessed, must have cost at least two cartons of cigarettes. Indeed, Moulin’s suit was “much better...made, [with]...all silk linings, and...an outside label on it, ...it looked like an outside suit" instead of the ordinary, rough-hewn and ill-fitting prison garb.⁶⁷

Fine clothes aside, prison officials were convinced that queens were a source of disorder, and claimed that inmates frequently fought over possession of queens. Folsom’s Captain Ryan believed that two-thirds of stabbings at Folsom occurred when a prisoner lost possession of “his” queen. Ryan described violence over the queen named Evalszior: “We had a cutting scrape only two or three months ago. A fellow named Morgan and a Mexican named Garcia, - it was over...Evalszior, - both of them were cut, and it was over this queen.”⁶⁸ Evalszior (a prisoner whose file has since been destroyed) sexually mediated between a white and a Mexican prisoner, who used violence to resolve their own masculine power struggle over ownership of her sex. However, Captain Ryan and the two prisoners who fought over Evalszior were loath to

⁶⁷ W.H. West testimony, Laundry man at Folsom., Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 670-685, esp. 674. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

⁶⁸ Capt William J. Ryan testimony, Volume II: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 399-436, esp. 428. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:957.

recognize how queens made use of their sexual authority for their own ends.

Nevertheless, though prison officials declined to comment as to whether or not queens received sexual pleasure from their sexuality, one did note that queens frequently had a “continued flow of favors that come their way. I mean, from the commissary, and the protection that comes with it, and all that.”⁶⁹

While prison officials strove for mastery over space as a way to control sexual behavior and maintain their version of good order, individual officials ran up against a system that was nearly as convoluted for them as it was for prisoners. The complex institutional formation of the prison itself proved surprisingly difficult to manage, even from the authoritative position of a prison official.

K. L. Buchanan was the Folsom Turnkey. As such, he was in charge of inmates’ cell assignments, and was particularly well suited for making sure that no “known homosexual” prisoners would be permitted to share a cell. Buchanan also said that even though he was officially in charge of moving prisoners from one cell to another, but that in reality this was much more complicated. As he explained to the Governor’s Investigating committee in 1943, “You have the power to move them around to a certain extent, but you can’t move everybody around as you like. If you interfere with the steward’s help, he will come out with a complaint against you for moving his men around. And if you move any of the office forces, you have the office force to contend with. If you don’t put them in the cells that they want to be put in, you

⁶⁹ J. W. Dunlop testimony, Folsom protestant Chaplain, Volume IV: Witnesses Before the Governor’s Committee on Investigation of Folsom Prison, pp. 734-757, esp. 752-2. CSA, Earl Warren Papers – Governor’s Committee on Penal Affairs – 1943-44. F3640:959.

will have trouble with the other departments, and you will get a call from the Warden, or somebody else."⁷⁰

Buchanan related the context of his frustrations. In order to break up prisoners in the kitchen crew who had been celling together and having sex, he needed to relocate a group of prison clerks. But the clerks started a petition against him, because they didn't want to be moved. He explained, "There are certain cells around here that they want, and if they don't get them, they just put the heat on, and you just leave them alone." Senator Deuel asked "They put the heat on from what source?" Answer: "From the front office." Deuel: "From the Warden's office?" Buchanan: "Yes."⁷¹

Here was a situation in which Buchanan had threatened to break up some of the cell ordering of the kitchen crew, because some of them were having sex with each other. However, moving these prisoners around this would have disrupted the cells that the office clerks enjoyed, and the office workers were privileged in the penal hierarchy. The clerks' close proximity to the Folsom warden, and the fact that they worked directly with him as his office staff, enabled them to exert pull and obligations on Warden Plummer. So, they told Plummer that they wanted to keep those cells, and he called the turnkey to make sure that no changes were made to upset his underlings. Because the office staff at Folsom had a direct line of advocacy to the Warden, it seems as if even guards and other prison officials were constrained by the diffuse networks of

⁷⁰ K. L. Buchanan testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 492-518, esp. 514. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

⁷¹ K. L. Buchanan testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 492-518, esp. 515. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

authority between state officials and highly-placed inmates in the prison hierarchy.

While some officials bristled within these networks, they certainly did so less than other, less well connected prisoners, who suffered under all of their authority.⁷² As

Inmate Jack Olympus explained from solitary confinement, life in prison was

“politics... if you are in, you are in, and if you are out, you are out...”⁷³

Prisoners’ Collective Action and Official and Unofficial Guard Violence

The prison market, like all markets, was structured by antagonism and competition. In the tense prison environment, the markets of sexuality, or violent domination, of exploitation and of trade placed people’s lives on the line, and few prisoners were likely to trust each other with their lives. It was generally easier to try to navigate the markets as an individual, and when an inmate tried to oppose the prison itself, they usually did so by themselves, or perhaps with an accomplice or two. When prisoners did oppose state authority or the networks of power that underscored them, they were met with the ultimate force that maintained authority – official state violence. Individual acts of violence, escape, or rebellion could be dealt with administratively: with a further sentence, loss of good time, solitary confinement, or a death sentence, as when in 1937 a group of Folsom prisoners took the warden hostage and killed him before being

⁷² K. L. Buchanan testimony, Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 492-518. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958. Here as elsewhere, racial identity played a key role in hierarchy. The best evidence suggests that only white inmates worked as clerks in the Warden’s office, and benefited from this hierarchical position. Black, Mexican, and Asian prisoners were much further from these positions of authority.

⁷³ Jack B. Olympus testimony, Folsom #24315. Volume III: Witnesses Before the Governor's Committee on Investigation of Folsom Prison, pp. 684-706. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:958.

recaptured themselves. When a prisoner tried to escape from the prison, it was precisely this – an *escape* – and not an attempt to transform the institution.

But this wasn't always the case. When prisoners overcame individualized identities as prisoners and found collective identity against their keepers, they did attempt more significant, if still limited, transformation.

According to H. Buderous von Carlshausen, a prisoner at San Quentin, 1939 saw an increase in prisoners' protests at their conditions of life. Early in the year, there was a

small series of strikes by inmates in protest against being denied the privilege of enjoying the very few minutes in sunshine, after work and before entering the dining room for lunch – and later – supper. Prison routine calls for sixteen hours daily inside their cells for the greater part of the population. Orders were issued to march from the shops direct to the mess halls..... The strikes followed. The orders were withdrawn.⁷⁴

Prisoners' protested for the small qualities of their lives – seeing the sun, and feeling its rays, or even just feeling the rain. These were vitally important for prisoners, something they were willing to risk punishment for. A different prisoner described how important it was to see sky:

Surrounded on all sides by architectural atrocities, unbroken ugliness, the mind directs the eyes to a more pleasing sight which is ever open for one's vision. And the only beautiful sight that tends to brighten up the drabness of their existence is an open expanse of sunny skies overhead, eye-restful, soothing as a balm....The sky is infinite space; no roads in sight, no gleaming rails to provoke a longing for New York, Chicago, Kansas City, or, for that matter, Oshkosh.⁷⁵

⁷⁴ H. Buderous von Carlshausen, aka "Roark Tamerlane," "America! -- add stars to our stripes," unpublished manuscript, CASL CA History Room, 365 C284, p. 9. Underlining in original.

⁷⁵ Quoted in Clemmer, *The Prison Community*, 179.

San Quentin's prisoners met, it seems, some success in this collective action for the dignity to see the skies before lunch and supper. In late March of 1939, perhaps emboldened by earlier successes, and perhaps in memory of the 1934 San Francisco waterfront strike, prisoners staged a huge food strike at San Quentin. Yet for reasons that are unclear, the food strike became much more of a violent flashpoint than had previous collective actions.⁷⁶ The condition of the food was always a matter of complaint, and in March 1939, prisoners shut San Quentin down by way of a general strike. "Rumors had circulated that a 'food-strike' might take place. The general agreement among the men was to obey all rules, use no violence, perform all required work, but to consume no more of the unsavory, dirty, repetitious (sic) meals. The apparent success of the small strikes perhaps gave birth to the dream that more improvement could be gained with a large demonstration."⁷⁷ Von Carlshausen's narrative of the strike is worth quoting:

One hash-day-noon – this hash was but half-cooked during previous weeks sent hundreds to the hospital with stomach complaints – when the whistles blew for line-up, about one hundred men grouped themselves in the center of the Big-yard...bordered on three sides by the fortress-like prison blocks, with the two joining mess halls to the west— and silently desisted efforts of guards to join the remainder. There were some tense moments during which thousands in line looked uncertainly at us few, and then, miracle of miracles, like droplets from icicles, the lines melted away, the little group grew like a whirlpool. The only voices raised were those who cheered the fellows joining-up. The guards were baffled. There was no way to shove hundreds that grew to thousands in but a few minutes. There was no violence. Then came a storm of laughter—the laughter of relief and ridicule(sic) too, ridicule(sic) for vein (sic)efforts to move

⁷⁶ I have not yet been able to exhaustively examine the newspaper reports for the perspective they imparted. Thus I rely on this prisoners' testimony for the narrative of events, which is neither more nor less "truthful" a representation than one provided by contemporary newspapers. A more developed version of this chapter will incorporate newspaper reports.

⁷⁷ von Carlshausen, "America! -- add stars to our stripes," 10.

this body. *Every man felt like a brother to the strangest 'fish' in the yard.* Just a few hundreds ate lunch—there are tories in every clime.⁷⁸

In von Carlshausen's description, the widespread and ever present antagonism among prisoners momentarily subsided in the process of their communal protest. Indeed, the protest itself generated the feeling of community and solidarity as the male gendered affective kinship of "brotherhood," from old timers to the newest and strangest "fish" (new prisoners). And they were united against their keepers. And laughter (along with the refusal of labor) was among the most powerful weapons they wielded: disarming, aural, and communal; an assault on guards' and state authority by way of humor. The laughter bespoke their fear and relief and their community as prisoners in protest. He continued,

As we waited in the yard, wondering what would happen to us, expecting machine guns to cut loose any minute from the cat-walks above where the half-dozen guards grew to a half-company, a wild rumor was born and spread: *For the first time in the history of his regime* – according to the "Old Timers"*** *The then warden would talk to us en masse in the Big-Yard, to learn our wants.* More guards joined the rails, armed with gas bombs, masks, riot guns and other armnament(sic).....Then, surrounded by another dozen guards and officials, the former warden actually entered the yard and made some nervous promises of better food. Meanwhile, a number of men suspected of being organizers of the strike (they weren't) disappeared from our midst. We heard rumors that they were on the 'shelf' or in the 'hole'. The tempo of the men was for continuing the strike until their fellows were released from this special punishment.... Many did not go to work, and, as evening came, only a handful actually entered the dining rooms. From that night on, for nearly a week, very few men left their cells at any time, although many did go to work. Meanwhile, and while the Big-Yard still swarmed, news-planes flew low over the institution to take pictures,

⁷⁸ Ibid. The "torie" reference is another use of placing prisoners – and prisoners' movements – in the patriotic context of American history and patriotism. This was the broader foundation of von Carlshausen's wartime era manuscript. Italics added.

for, I understand, the warden would not allow a single reporter within the reservation to learn what was going on.⁷⁹

A Guard named Richardson later testified about his recollection of the event. Governor Olson asked him, "What was the riot? Where were they rioting? What was done in the yard?" In Richardson's response, he explained, "Well, it really wasn't a riot. They just refused to go to work. They would come out of the mess hall there after the meals." Olson continued to question him:

Q: Did you hear them refuse to go to work?

A: Yes, I did.

Q: What did they say?

A: Well, they said the food was bad, and they wasn't going to work until they got to see the Warden or the Captain.

Q: And then they were taken to Siberia?

A: Yes. Well, we took them to the Captain first.

Q: Is that substantially what you mean when the reference has been made to a riot; that their food was bad and that they wouldn't go to work until they could see the Warden or the Captain?

A: That is right?

⁷⁹ Ibid, 11. Italicized sections were emphasized in the original in red ink; the underlining was in the original. Von Carlshausen's description differs from Donald Clemmer's all too brief analysis of collective action in 1930s prisons. Clemmer described a 70-odd person strike that emerged when prisoners shoveling coal were denied their lunch break by a particularly irksome guard on a particularly hot day. When guards threatened the strikers with punishment, more than half broke ranks and were booed by the remaining strikers. In Clemmer's words, the strike was unsuccessful "because the leadership was weak; no essential unanimity existed in the gang; no definite goal was in sight; and...there was even some disagreement as to the causes for the action they took." Thus there was little sense of community to sustain the strike. "The event approached strike behavior only for the men who persisted and were punished. They had a we-feeling of sufficient degree, though for somewhat diverse reasons, to prompt spontaneous, corporate action in the face of obstacles." Yet in the San Quentin food strike, the short duration of the strike and its supposed failure (until the investigation some months later, at least) was less the failure of horizontal "we-feeling" among prisoners than it was a belief in the hopelessness of sustained resistance against machine guns, solitary confinement, longer sentences, and the beatings which prisoners knew to have happened. Clemmer concluded that the thorough individuation of most prisoners suggested that "such collective action of protest as does arise, comes out of an immediate situation in which they themselves are involved, and not as protest to an idea." Clemmer, *The Prison Community*, 290—293. However, this conceptualization does not explain the number of strikes in early 1939, or understand how protesting for good food is indeed an "idea" of personal dignity and bodily self-control. The many elements combining to prevent collective action made it all the more impressive – and terrifying for officials – when it took place.

Q: And that is all they did?

A: Well, they all got in a big crowd and wouldn't go to work.⁸⁰

It seems that some 41 prisoners identified as the ringleaders were singled out and brought to "Siberia," the solitary confinement area at San Quentin.⁸¹ Located on the top floor of the North Cell Block, the west side of Siberia was used for solitary confinement, and the east side was the Condemned Row, for prisoners sentenced to death. Guard W. G. Lewis, the officer in charge of Siberia, ordered the strikers to strip naked and had the inmate barber shave their heads. The strikers were given shoddy clothing, ragged underwear, or no underwear at all, and doubled up in the solitary confinement cells. Afterwards, all the prisoners were made to stand on the Spot, gray lead-paint circles painted on the floor, some 22 inches in diameter, and commanded not to move or shift their weight for eight hours. Under ordinary circumstances, if a prisoner forced to stand on the spot lost their balance or moved, they would be beaten.⁸² In this, "the spot" functioned exactly as did "standing on the barrel" in Texas prisons.

Shortly after the food strikers began their time on the spot, Captain of the Guard Ralph H. New, "known in the prison as 'rough-house New,'" arrived in Siberia and told the strikers that they would spend the next six months of their sentences in solitary

⁸⁰ Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, pp. 300-301. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

⁸¹ Most of the following narrative draws from Mr. Murphy, one of the representatives of the State against the Prison Board. Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, pp. 61-64. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

⁸² See von Carlshausen. In his description of the Spot, which matched von Carlshausen's precisely, Murphy suggested that the idea for the Spot as a disciplinary technique was developed by Lewis. Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, p. 63. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing). This begs an interesting question, but one that is difficult to answer: How did such a practice travel from prison to prison, from Texas to California, two locations where this technique of unofficial punishment was used?

confinement for organizing the strike, reported in the press and guard corps as a “food riot.”

Upon hearing this news, the strikers reportedly refused to stand on the spot and, as they had in the Big Yard strike, they sat down. When faced with their non-cooperation, Lewis called for reinforcements from the Guard line. Some reported that when the guards arrived, that prisoners were standing on the Spots, while other descriptions had them sitting down. In either case, the prisoners were acting neither violently nor were they disordered. Prisoners were ordered back into the solitary confinement cells; they obeyed, and were locked up. Then, one at a time, Lewis ordered the prisoners out of their cells and made them stand on the Spot. Guards beat the prisoners one at a time, using an assortment of home made weapons. These included clubs; a rosin-coated rubber hose filled with lead buckshot, with a jute-wound handgrip; and a heavy, metal spring sewn in leather.⁸³ When one guard grew tired, another would take his place.

According to day guard Timothy L. Bell, each striker was taken from their cell, and beaten “across the arms, legs, body,” and some were hit on the “top of the head” with the shot-filled hose.⁸⁴ They offered no resistance to the beatings, though they tried to cover themselves as best they could, doubling their arms over themselves.⁸⁵ Guards took turns administering the beatings, which lasted a few minutes each before the next

⁸³ Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, pp. 61-65. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

⁸⁴ Bell testimony, Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, pp. 179-180. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

⁸⁵ Bell testimony, Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, pp. 189. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

striker was called out. After all of the prisoners were systematically beaten, Lewis reportedly heard one of the prisoners talking to his cellmate. Lewis shouted to his fellow guards, "This man hasn't got enough. Come back down here and hit him a few more." And Bell, obeying his superior's orders, hit him four or five more times.⁸⁶

A guard named Trafton also participated in the beatings, and maintained that the beatings were necessary for to maintain order at San Quentin. In his words,

I believe that they [the whippings] were justified under the circumstances, yes, sir. I believe it was very important to the administration of the prison that such was done for the safebeing (sic) of the prison. It would have probably led to riots and cause shooting and a much worse situation developed.⁸⁷

Trafton believed that if they hadn't taken the brutal steps to control the so called "ringleaders" in Siberia, the other prisoners would have heard about it in the yard, and they would have lost control of the prison.

If those men had gotten out of hand, and continued to defy the rules and regulations, and so on, the men in the yard -- they have ways of finding out what had been done, and they would have soon figured "Well, we have control of the prison now." Consequently they would have rioted, and various other things. I know that the men on the walls would have suppressed the rioting. It would probably have meant the lives of a good many prisoners, and probably some of the guards.⁸⁸

⁸⁶ Bell testimony, Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, pp. 186-187. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing). Even though he was one of the people inflicting violence, Bell was himself traumatized by the beatings. His testimony to investigators reveals telling details of a traumatic event: after the beatings he and the other guards went downstairs from Siberia. "I might say at this time, just a matter of technicality that I happen to remember I took out a cigarette; and Mr. Sullivan said, 'Give me one of those;' and I gave him a cigarette. It doesn't have any bearing on the case; but it is juts one of those things that happened. I am trying to bring out every detail that happened up there." See p. 189.

⁸⁷ Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol 1, p. 419. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

⁸⁸ Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol 1, p. 420. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

For Trafton, as well as for others who participated in the beatings, nothing less was at stake than the prison itself. Claims to better food were irrelevant, and the possibility of considering a change in the quality of prisoners' food was not an option. The strikers needed to be broken as individuals and as a group, and the guards who lived in the prison themselves saw no other option than concentrated and tightly focused violence. But such violence on behalf of the state was also highly personal violence, among people, whose bodies touched, who breathed the same air and each others' smell. For reformers, it was the intimacy of this form of violence that they railed against.

Indeed, when guards beat prisoners, they did so believing that they were protecting the institution from disorder and chaos. But more than institutional order was at stake, and Lewis's actions spoke volumes to in this matter. As one of the more vigorous guards, Lewis also believed that he needed to beat strikers to instill personal respect and authority, as well as to cow them from any minute gesture of defiance.⁸⁹

⁸⁹ One prisoner quoted by Donald Clemmer in 1940 said that guards who interwove personal authority into their duties were dangerous to prisoners and to the general order of the institution: "Instead of impressing a prisoner with the fact that the uniform represents inexorable social power, this man makes each command or reprimand a personal matter.... It is stupidity of this type in those who may have become perverted by their mother's nightbarking, that fans the always present fuel of prison revolt into consuming flame...." Clemmer, *The Prison Community*, 189. But Clemmer also argued that some guards received a psychic wage, as it were, from dominating their wards. "[B]y dominance over a helpless group, prison workers are able to tickle their egos and obtain some satisfaction through the power of authority.... [P]rison guards who, all through their lives, have been in a subordinate position, loudly command a cowed, helpless inmate to perform such and such an act." 185. Clemmer also revealed that fear animated much of prison guards' attitudes and violence toward prisoners, when he cited a common sentiment among guards: "You can never trust any of 'em [prisoners]; they'd cut your throat and never give it a second thought," Clemmer paired this with the quote "I seen the day when we'd take a con like that and whip him until there was no fight left in him." 185. Though frightening, Clemmer asserted that this was but a "reflection of societal opinion," the magnified feelings of general society for revenge toward lawbreakers. 186. However, I would assert that there are far more highly local and gendered considerations in interpersonal violence between guards and prisoners.

The violence he administered was not the antiseptic violence of an abstract state, or the bloodless violence of forcing someone to stand on the spot until they fainted. This was highly personal, an intimate performance of authority and, it seems, rage. Such was the briolage of guard violence, when Lewis kicked and beat striker Donald Harris, and “gassed him with a pyrene fire extinguisher, rendering him unconscious for approximately four hours.”⁹⁰ As Bell explained, one guard asked the prisoner he was beating if he had had enough. The prisoner answered “Yes.” The guard then “hit him two or three times; and he [the guard] says ‘can’t you say ‘Sir’”⁹¹ When the prisoner answered Yes, Sir, he was finally placed back in his cell. Merely affirming his submission to the guard was insufficient: the prisoner was made to call his aggressor *Sir*, to affirm the guard’s authoritative, personal masculinity, in order to end the pain. While the punitive state was literally made through Guard Lewis’s hand and his home-made assortment of whips, (dissected and mused over in the subsequent investigation) Lewis also used his position as a state officer to enhance his personal authority in the penal context. It was the very personal nature of this officially unofficial violence that

⁹⁰ Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, p. 66. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

⁹¹ Bell testimony, Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, p. 190. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing). This closely parallels a black Texas prisoner’s description of guard violence in the early 1960s:

One time Captain Powell was whipping a boy with that bat and he kept a hollerin’, “Oh lordy, oh lordy!” And then finally he bust him again and he say “Oh lordy, Captain!” And the Captain said, “I thought you’d get around to me directly.” Cause he wanted him to know that Jesus wasn’t whippin’ him, it was *him* whippin’ him. And Jesus couldn’t help him neither.

This personal violence was neither regional nor rooted in aesthetically modern or non-modern prisons. It was/is rather endemic to processes of human bondage. The quote is from Bruce Jackson, ed., *Wake Up Dead Man: Afro-American Worksongs from Texas Prisons* (Cambridge, MA: Harvard University Press, 1972), 9. Italics in original.

reformers abhorred, favoring instead the antiseptic violence of walls, cellblocks, and indeterminate sentences.⁹²

The final enforcement of state authority in California and Texas prisons came through violence. Yet the state itself was an ambiguous entity, consisting of guards who argued with their bosses over wages and their control on the shop floor, as it were, and who tried to maintain control over their wards in the ways they saw fit. By this I mean not just a guard's hint that one of his chosen inmates should rough up another as the state's proxy, but rather that guards would enforce violent authority themselves. While reformers prided themselves on the minimization of violence in favor of education, recreation, architectural controls and behavioral correction, physical violence and the infliction of a broad variety of suffering remained the cornerstone of every American penitentiary. Yet at the same moment that guards enforced penal order with whips and clubs, reformers decried the use of such violence and the working class guards who wielded clubs as barbaric, and needing to be disciplined, too. When guards beat prisoners, they acted as representatives of the state, as well as individuals who attempted to maintain personal respect and symbolic authority for their violence. Reformers tried to strip guards of their capacity for violent authority, instilling instead an order based in regulation, bureaucracy, and administrative detail. Guards resisted

⁹² Norbert Elias' *The Civilizing Process*, Vol. 1, and subsequent analysts' approval of Elias' thesis, have made powerful arguments regarding the ever-deeper hiding of pain and violence away from bourgeois view in modern life. Yet pain and terror remain foundational to state control in locations like the prison. Antiseptic violence in architecture is *additive*, rather than a *replacement*, for this very basic mode of domination. On movements for the elimination of violence as an official practice in Texas State prisons, see Paul M. Lucko, "The Governor and the Bat: Prison Reform during the Oscar B. Colquitt Administration, 1911—1915," *Southwestern Historical Quarterly*, Vol. 106 No. 3, (January 2003): 396—417. On the additive nature of penal enforcement and torture, see David Garland, *Punishment and Modern Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990).

these changes, recognizing that their personal funds of violent power were being greatly (if only officially) diminished. And for this reason, they felt personally threatened for their loss of authority, and for their symbolic unmanning at the hands of elite bureaucrats and inmates alike.

At the same time, there was a curious disjuncture between the violent practices of guards and what was recorded and acknowledged at the highest levels of the California prison administration. No where is it mentioned in the San Quentin Board of Prison Directors Minutes on the days surrounding the food strike that prisoners were physically beaten. The harshest punishment described in these books was the loss of credits. Nevertheless, physical violence was the cornerstone and the lynchpin, as it were, of penal control.⁹³ The violence went entirely unmentioned; the beatings were

⁹³ The following list of prisoners and their “official” punishments are drawn from the San Quentin Board of Prison Directors Minutes, 1939-40, CSA, Department of Corrections Records, F3717:1010. April 22, 1939. pp 1-15. The Board decided that they would consider restoring these credits in April 1940.

Esus Nieto, 58772. Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty. Lost 3 mos credit.

Fred Holmberg, 58815, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead not guilty. Lost 6 mos credit.

Otis Taylor, 59676, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead not guilty. Lost 3 mos credit.

Alvin Stevenson, 59978. Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty. Lost 3 mos credit.

Phil Rosen, 60171. Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty. Lost 3 mos credit.

Charles E. Robinson, 60194. Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty. Lost 3 mos credit.

Joseph Blinsky, 60270, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty. Lost 3 mos credit. Case File # 599

Irving Addison, 60518. Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty. Lost 3 mos credit.

Jess Gonsalves, 60645. Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead NOT guilty, but FOUND GUILTY AND LOST NO CREDITS. WHY?

Henry Prince, 60648. Tried for agitating a strike and refusing to work in Jute Mill on Mar 22. Plead not guilty. Lost 3 mos credit.

Henry A Pierscinsky, 61185. Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty. Lost 3 mos credit.

James Drennan, 61498. Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead not guilty. Lost 3 mos credit.

Dave Spragin, 61537. Tried for agitating a strike and refusing to work in Jute Mill on Mar 22. Plead guilty. Lost 3 mos credit.

Harry A. Byrns. "Failed to go to work and refused to answer a runner" on Mar 21. pleaded guilty, lost 3 mos.

George Heck, 61885. Mar 25. Agitated a strike in the jute mill. Plead NOT GUILTY, found guilty. (For reasons that remain ambiguous, Heck lost no good time as punishment.)

Harvey Kent, 61907. Mar 22. Agitated a strike and refused to work in the jute mill. Plead not guilty, lost 3 mos.

Richard Henry Pollard. 62063. Mar 25 Agitated a strike in jute mill. Plead not guilty, lost 3 mos credit.

Orval Heath, 62080, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty, lost 3 mos.

Michael M Sever, 62137, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty, lost 3 mos.

Vern Elvine, 62158, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead not guilty. Lost 3 mos credit.

Vavon Johnston, 62325, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty, lost 3 mos.

William Shubin. 62402, Mar 22. Agitated a strike and refused to work in the jute mill. Plead not guilty, lost 3 mos.

Edward G Evans, 62564, "Failed to go to work and refused to answer a runner" on Mar 21. pleaded guilty, lost 3 mos.

Clarence W Byrd, 62686, Mar 22, "failed to report to work and created a disturbance in the main yard." pleaded guilty, lost 3 mos.

John Barry, 62726. Mar 22. Agitated a strike and refused to work in the jute mill. Plead guilty, lost 3 mos.

Carl Angell, 62835, Mar 22. Agitated a strike and refused to work in the jute mill. Plead not guilty, lost 3 mos.

Thomas E Loftis, 62850, Mar 22. Agitated a strike and refused to work in the jute mill. guilty, lost 3 mos. Case file #631

Donald Harris, 62941, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead not guilty. Lost 3 mos credit.

Otto Ware, 62979, Mar 22. Agitated a strike and refused to work in the jute mill. Plead guilty, lost 3 mos.

Elson Dolen, 63069, Tried for refusing to work and creating a disturbance in the main yard Mar 21. Plead guilty. Lost 3 mos credit.

Of the San Quentin food strikers, I have only been able to locate case files for Joseph Blinksy, Alfred Ferreira Jardine, and Phil Rosen. I have been unable to determine from extant records the racial composition of strikers, or their positions within penal hierarchies. However, ten of the twenty nine listed here worked in the jute mill, widely known as the worst labor assignment in the institution. Thus their political struggle may well have been associated with their position on or near the bottom of the productive and labor economy. Alfred Ferreira Jardine, 55370, was also among the strikers, but was not listed among those punished here. Jardine, arrested for burglary in 1924, was listed as racially Portuguese, was born and raised in California, and described himself as a laborer with no real trade. New York-born Phil Rosen, 60171, was listed as "Jewish" for his "color" in official records, was a laborer, and had been arrested for two counts of 1st degree robbery. Joseph Blinsky, listed as white and born in West Virginia, was arrested for grand theft and worked in the jute mill. He had no occupation listed in his files.

silenced in the historical record, and would have remained so had there been no later investigation.

A New Deal for Prisons: Regulating the Economies of Sex, Violence, and Commodity Exchange

While there were significant differences between the 1939 investigation at San Quentin and the investigation at Folsom in 1943-44, the commonalities they shared point to emphases among New Deal era prison reformers. In each case, reformers were fundamentally concerned with the reassertion of governance over markets and politics out of control. The interpersonal hierarchies and markets, steeped in violence, sexuality, and commodity exchange interwove prison guards, wardens, and prisoners alike. This indeterminacy of who the state was and how it operated was increasingly unpalatable for reformers, who saw rational planning and bureaucratic administration as the panacea to social ills. Reformers saw both officially unofficial guard violence and Con Bosses' authority as illegitimate. And so too did prisoners' consensual sexuality confound and befuddle reformers, which they saw as corrupting of the prison as were Con Bosses selling of good time credits and the warden's complicity.

In the 1939 investigation, liberal-progressive Governor Olson inverted the conventional order of good and evil. In the 1939 investigation, prisoners were figured as victimized workers organizing for dignity and humane treatment, attacked by guards wielding batons and lead-packed hoses with zeal. Olson brought charges against guards, as well as against the Board of Prison Directors for their essential complicity in

the beatings after the food strikes. Yet defenders of the guards' actions tried to reassert the common sense narratives of good and bad, of valiant guards and sinister criminals:

The facts are, a riot and a food strike had been set in motion by half a hundred desperate criminals who defied the guards and violently threatened open battle for control of the prison. The issue was clear; was the prison to be run by the Warden or by the prisoners? The circumstances required immediate and unequivocal action by the prison authorities in order to maintain discipline. Such action was taken.⁹⁴

Yet the issue was not so clear. In the progressive moment of the late New Deal, and under an investigation headed by Culbert Olson, officially unofficial state violence was to be stopped. Interpersonal violence was to be minimized in favor of rational planning and reorganization. The social capital that prisoners and guards alike exercised needed to be reigned in under the progressive planning state.

Olson, a liberal Roosevelt advocate, was both supported and undermined in his national politics as Roosevelt was assailed from the left and right toward the end of the 1930s.⁹⁵ In a move celebrated by labor leaders and working people, Olson had previously freed labor leader Tom Mooney from San Quentin from his criminal syndicalism charges, which brought Olson under a great deal of pressure from his rightist adversaries. However, he firmly claimed the moral high ground in the San Quentin investigation, seeking to root out violence and corruption at San Quentin. In the following statement, Mr. Olshausen, the attorney representing the State against the Board of Prison Directors, read Penal Code Section 681 into the testimony:

⁹⁴ Attorney Davis, on behalf of the Board of Prison Directors, Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol 1, p. 52. CSA, Dept of Penology Records, F3450: Vols. 1-4, 6 (Vol 5 missing).

⁹⁵ On Olson's trying political career, see Kevin Starr, *Endangered Dreams: The Great Depression in California* (New York: Oxford University Press, 1997).

“It shall be unlawful to use in the prisons, reformatory institutions, jails, State hospitals, or any other State, county, or city institution any cruel, corporal, or unusual punishment.”... If the punishment is cruel, it is forbidden. If it is corporal, it is forbidden. If it is unusual, it is forbidden. In other words, the Code Section without any qualification forbids all forms of corporal punishment in prisons or in other State institutions. ... [T]he mere argument that punishment may be justified by circumstances is excluded by the language of the Code section itself.⁹⁶

Olshausen enumerated the tortures specifically prohibited: "the use of the straight-jacket, gag, thumb-screw" adding that in 1933 the specific word "corporal" was added to the legislation prohibiting certain forms of punishment for inmates.⁹⁷ Invoking the classic modernist and progressive narrative of punishment moving away from brutality, Olshausen referred to these as "forms of old-style punishment" that were inappropriate to a modern penal system.⁹⁸ While his critics charged Olson with political maneuverings in reorganizing the prison board, he clearly intended a reformed and less violent prison. In fact, the very first action the new prison board took in 1940 was to abolish the punishment of making prisoners stand on the spot. In a short time, the new San Quentin Warden, Clinton T. Duffy, dismantled all the locks and doors in the part of San Quentin formerly known as the Dungeon.⁹⁹

The 1943-44 Alco investigation asked similar questions: who was running the prison? When they determined that Con Bosses were in charge by virtue of their placement in networks and economies of authority, they decided the entire prison

⁹⁶ Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, pp. 48-9. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing).

⁹⁷ Ibid.

⁹⁸ Ibid, p. 50.

⁹⁹ San Quentin Board of Prison Directors Minutes. The Spot was abolished in the June 29, 1940 Minutes, p. 451; and the discussion of dismantling the Dungeon took place in the August 10, 1940 Minutes, p. 482. F3717:1009, CSA.

system needed a thorough overhaul and the re-imposition of modern, hierarchical, bureaucratic discipline. Queens and Con Bosses emerged from the 1943 investigation as the scourge of the prison system, just as guards who exercised personal violence were a threat to the desired liberal order of the prison. While Governor Warren was by no means the liberal that Olson had been, he nevertheless oversaw an investigation to modernize penal practice and develop thorough governmental regulation and centralized oversight of state institutions. Each embodied different sides of liberal prison reform, which, as scholars from Michel Foucault to Alex Lichtenstein have made clear, have done more to refine techniques of punishment than they have to alleviate the suffering of the condemned.¹⁰⁰

The Olson investigation, like the Alco investigation over corruption at Folsom in 1943-44, sought to impose a desired state order on the many and overlapping forms of authority in the prisons. In January 1944 Earl Warren read a statement to a special session of the legislature, stating that “the authority of the Con Bosses has often been greater than that of the Captain of the Guard.”¹⁰¹ The regulation of violent practice took on gendered terms, and it was more than just the specific shape of Siberia’s Officer Lewis’s whips that made them into phallic objects that needed to be reigned in. Investigators recognized, at least at some implicit levels, the intimate and sexual nature of the punishments they abhorred. When guards wielded whips and hoses loaded with lead shot, they exercised a phallic state authority that liberal reformers saw as a misuse

¹⁰⁰ Foucault, *Discipline and Punish*; Alex Lichtenstein, “The private and the public in penal history: A commentary on Tonry and Zimring,” in David Garland, ed., *Mass Imprisonment: Social Causes and Consequences* (London: Sage Press, 2001), 171—178.

¹⁰¹ Quoted in Michael D. Brown, “History of Folsom Prison, 1878—1978,” (Represa, CA: 1978).

of the rational, regulatory state. While Texas reformers sought to take away Building Tenders' knives (because they could enter other prisoners' bodies), they allowed them to keep clubs, which would remain external to the bodies they struck.¹⁰² California's reformers, more thoroughly steeped in liberalism than their Texan peers, sought more thoroughly architectural controls than explicitly violent ones. Nevertheless, the phallic and sexual overtones were clear in the language that investigators used. After investigators examined and cut apart the hoses filled with lead shot, unwound the jute handles, and cut through the rosin coating to harden the weapons, an investigating attorney asked San Quentin Sergeant of the Yard Peter Richardson and asked if he recognized it as being one of the weapons used to beat the food strikers. Richardson wasn't sure. The attorney asked if Richardson had the chance to observe the weapon "in its original form and prior to its emasculation for the purposes of observation."¹⁰³

In testimony such as this, we can see that Barbara Jeanne Yaley's masterful Marxian analysis of California prison history was incomplete. While she describes the bureaucratic centralization of state punishment in California as an element of state regulation of monopoly capital, we can see that Californian prison bureaucracy also had highly gendered, sexualized roots. And her macro-level analysis of the function of

¹⁰² Abner Louima's 1997 brutalization by New York police officers in a police station bathroom notwithstanding.

¹⁰³ Governor's Hearings/ Transcript of Hearings vs State Board of Prison Directors, Vol. 1, p. 286. CSA, Dept of Penology Records, F3450: Vols 1-4, 6 (Vol 5 missing). See also George Ryley Scott, *The History of Corporal Punishment*, (London: Senate Press, 1996), Myra C. Glenn, *Campaigns against Corporal Punishment: Prisoners, Sailors, Women, and Children in Antebellum America* (Albany: State University of New York Press, 1984).

punishment in the national political economy did not go into specific enough detail to explain the specific crises of the markets *within prisons* that reorganization addressed.

1942 also saw official reform at the highest levels of the Texas State Prison system, when “the bat” was officially outlawed in the Texas prison system. Select reformers had argued against whipping (and especially whipping white men) since a 1911 legislative investigation into the Prison system. The most success the investigation could claim on this count was to regulate the size and shape of whips guards could (officially) use. But guards, creative workers themselves, devised new ways of controlling their shop floors, and dominating prisoners. Nevertheless, after very public campaigns by humanitarian muckrakers like C.V. Compton, who had offered prison officials and Legislators \$1000 for every time he could whip them (none accepted the offer), the bat was finally abolished.¹⁰⁴ But violence diminished little, if at all. Building Tenders remained armed and very dangerous, and guards had a panoply of violent and “non-violent” means of punishment still at their disposal. Among others, these included standing on the barrel, handcuffing prisoners’ hands to bars high up behind their backs, so that their circulation was cut off and their fingers turned purple and black. Guards would squeeze and “milk” prisoners’ fingers, and their screams would echo through the tanks.¹⁰⁵ Building Tenders remained armed and in control until the 1980s, and there is evidence that prisoners still beat others at guards’ behest, for little more than a pack of cigarettes.

¹⁰⁴ C. V. Compton, *Flood Lights Behind The Gray Walls: An Exposé of Activities* (Dallas: C.V. Compton, 1942).

¹⁰⁵ See R. Craig Copeland, “The Evolution of The Texas Department of Corrections,” (MA Thesis, Sam Houston State University, 1980), interview, p. 57.

Sexuality and Violence as Causes for Reform

The occasion of the 1943-44 Alco Investigation, as it became known, provided opportunities for a realignment and reorganization of authority in the prison. In this moment of relative tumult, and from which the modern, bureaucratically-centralized California Department of Corrections emerged, prisoners and guards who had been “outside of the inner circle” finally voiced their complaints. That many complainants wrote anonymously indicated that they wanted to hedge their bets against the reforms. If Con Bosses weren’t dislodged from their positions of power, and if corrupt guards were held in place by the dense webs that supported them, these complaining prisoners would soon face some hard times themselves. Nevertheless, many wrote to the Alco commission of corruption and the complicity of guards and Con Bosses, who extorted money and goods from other prisoners, with the full knowledge and participation of guards. One anonymous writer suggested the investigators look in prisoners Tony Suza's plants, "where he has plenty of cash money planted."¹⁰⁶

Albert Mundt saw inmates’ sexuality as a disease run rampant, and he used Plummer’s seemingly lax attitude about men having sex with men to attack him.¹⁰⁷ Specifically, Mundt attacked Plummer for permitting homosexual activity and "degeneracy" to exist at Folsom because, in Mundt's words, Plummer believed "it was not harmful and most probably because it was or appeared easier to permit such

¹⁰⁶ Anonymous, undated letter to the Alco Committee. CSA, Earl Warren Papers – Administrative Files – Corrections – Governor's Prison Committee – Correspondence (Folder 5).

¹⁰⁷ Letter from Mundt to the Governor. CSA, Earl Warren Papers – Administrative Files – Corrections – Governor's Prison Committee – Folsom State Prison (Folder 15) 1942-43, F3640:986.

activity...." Plummer allowed known "lovers" (in quotes in Mundt's letter, since he cannot believe that men could be lovers) to cell together. Plummer also told guards not to enforce the rules against sex. When a guard brought this information to the prison board, Plummer was investigated and "thereafter untrusted to stamp out degeneracy and required to place known degenerates in single cells." However, according to Mundt, Plummer didn't want to enforce this rule, so that whenever a guard caught prisoners "in an act of sodomy or other compromising position," the officer was to

personally take a smear from the convict's penis to be introduced as evidence at a hearing before the warden. In other words, the guard is required to ... personally wipe off the inmate's penis. The guards have taken the position that they will not perform such acts and have recognized the order for what it was apparently meant to be, namely, an order not to arrest convicts for degeneracy.¹⁰⁸

The strict enforcement of male heterosexuality and non-participation in any sex was to be the result of penal reform and bureaucratic reorganization. Not only did men having sex with men undermine some guards' sense of their own masculinity, but their inability to enforce punishment on men who had sex during the Plummer administration made them feel subordinated to those whom they called "degenerates." This was the real crux of one guard's complaint against Plummer – his personal and masculine authority was undermined by Plummer's laxity on homosexuality, and because prisoners no longer respected his authority to punish people engaging in gay sex. Prison reform at Folsom was a highly sexualized – or anti-sexualized – process.

¹⁰⁸ Ibid.

Further, Mundt informed investigators that Plummer himself associated with homosexual prisoners. Indeed, Mundt indicated that the Warden assigned a prisoner named Baker – supposedly a known associate of homosexuals and member of the weightlifting and tumbling team – as his personal masseur. And, Plummer reputedly took massages at his personal residence. Baker was also known to have contributed to the delinquency of a minor girl, and involved a 16 year old boy in crime. Plummer also reputedly assigned him to supervise the children's playground at the Folsom reservation. Though Mundt indicated that he stopped this assignment from taking place, when he left Folsom, it did go through.¹⁰⁹ Mundt's testimony was clearly geared toward painting Plummer as a homosexual himself, mobilizing the innuendo of personal massages in order to malign his administration as one of corruption and moral, sexual degradation.

Guard violence and prisoners' sexuality were both anathema to the rational visions of elite state reformers, as violence was sexualized and sexuality overlapped with power and frequently expressed domination. Yet guards – the representatives of the state on the ground and behind bars – frequently saw sex as deviant but violence as necessary, especially when they felt their own personal gendered authority and prestige at stake. Because they knew all too well that their best defense, and perhaps the only thing that prevented them from being killed or beaten – or, in their worst nightmares, raped – by prisoners, was a symbolic authority as representatives of the state bolstered by physical violence. Without that violent capability, guards felt themselves emasculated and physically threatened. This was precisely why the old line guards

¹⁰⁹ Ibid.

resisted elite reforms and the banning of the lash, why Lee Simmons, Texas General Manager from 1931-35, could still advocate whipping as late as the 1970s, and why Clinton Duffy, the progressive Warden installed after the 1939 investigation, met such stiff resistance from his guard lines. The guards who demanded continued access to personal violence would have been the last to note the sexual and gendered elements of the foundations of their authority, or to have acknowledged the phallic properties of their clubs and whips. And it was no coincidence that they were among the most vocally opposed to male prisoners' sexuality. Their opposition to men having sex with men understood this sex as an abomination to be destroyed rather than a disease to be managed, as did elite reformers and advocates of therapeutic correction.¹¹⁰

Conclusion

Building Tenders and Con Bosses were invested with and took hold of different types of authority in the prison. The foundation of Con Boss authority grew from their bureaucratic and economic position in the prison hierarchy – they were typically the heads of departments, had access to paperwork, and to the productive capacities of each department. Thus as Warden Plummer's secretary, Burroughs McGraw could sell 6 months of good time to a prisoner, and the Con Boss in the clothing shop could sell a nicer suit of clothes for either cash or cigarettes. Their position in the labor and bureaucratic hierarchies ensured both their control of workers/prisoners beneath them in

¹¹⁰ On the development of therapeutic and expert treatment (and reaction against it) see Theodore Hamm, *Rebel and a Cause: Caryl Chessman and the Politics of the Death Penalty in Postwar California, 1948-1974* (Berkeley: University of California Press, 2001).

the status hierarchy, and thus they served as the proxy of the state. But they also benefited from this position as individuals, extorting money from prisoners and being granted symbolic capital from guards and prison authorities. Con Bosses thus accrued and spent political capital (through their connections with prisoners and 'corrupt' guards) and financial capital from their positions. Yet more than their position in the productive economy, their knowledge of the prison system itself, and an understanding of social relationships – the favors owed and the gifts bestowed – secured their places in the Folsom economy and penal hierarchy. This is why so many people in the 1943-44 investigation decried the "politics" that ran the prison. The nature of their social capital came from the relationships they maintained with upper level administrators, rank and file guards, and prisoners themselves. The Con Bosses' authority was eventually contested by those prisoners and guards who were excluded from the market, and whose complaints found expression in reformist investigations and were the evidentiary basis for penal reorganization and the transformation of power systems and networks. Their words were the foundation for the bureaucratic reorganization of power relations at the furthest reaches of state authority. The prisoners and guards who had been excluded from the prison markets of authority found fertile ground when provided with the opportunity to speak in front of reformist politicians. They described the conditions in California prisons as corrupted by illicit markets in male sexuality, violence, and commodity exchange, all of which went against the reformist impulses of the New Deal era.

Texas' Building Tenders were invested with a different foundation of authority. The source of BT authority seemed to be less properly bureaucratic (in the official hierarchy of performing rationally administered tasks, organizing production and mobilizing labor), though it was sanctioned by wardens and guards. The source of BT's authority came from their unofficially sanctioned violence and their charge of controlling the spaces of the tanks. BTs were armed by guards, but their presence as keepers of a violent order was decried by the more liberal elements of the penal elite. While California prisons underwent numerous investigations and reform movements in the mid 20th century, Texas prisons saw few substantive challenges to the regime of sexual violence enforced by Building Tenders. Indeed, BTs continued to maintain "order" until the 1980s, when the liberal vision of how punishment should function gained a tenuous, temporary, hold in Texas under enforced Federal judicial oversight. BTs maintained order through the force of their violence in the Texas prison farm "tanks." They maintained relationships with the guards who allowed them to keep knives (or supplied them), and perhaps guards were reluctant to try to take these weapons away. BTs also exercised authority by making sure that little out of the way happened in the tanks, the dormitories where prisoners slept and spent times away from work.

Guards themselves navigated a contradictory position as the working class representatives of the state, whose authority was undermined and manipulated by prisoners and challenged by their superiors. They found themselves intertwined in confusing networks over which, despite their official rank and their batons, they had

little control other than their own capacity for violence, or the symbolic authority that they could muster as representatives of the state. When reformers tried to make the prisons less violent, guards lost the material and symbolic foundation of their authority, expressions of authority that were inextricably tied to notions of masculinity.

California reformers tried to regulate the productive processes in San Quentin and Folsom, and researched dismantling the Con Boss system, initially determining that replacing prisoners who headed departments with “free workers” would be too costly, but later deciding that such a change was necessary to penological progress. They streamlined lines of command and authority and centralized bureaucratic control in the newly minted California Department of Corrections. Little did they realize that administrative reorganization would do relatively little and not go far enough to change life on the ground behind bars. The foundations of social capital – sexuality and the capacity for violence, and the commodities of the covert economy – cash, tobacco, drugs, and tooth powder, were highly resistant to regulation. The New Deal for prisons, as elements of elite governmental oversight and the regulation of markets, receded into a horizon blocked by high walls and barbed wire.

Suspended in these intertwined networks of authority, prisoners remained thoroughly alienated from each other, seeing each other as potential threats or as potential victims. Only rarely could they be lovers or friends, and if so, they risked punishment from their keepers. In rare moments when prisoners overcame the nearly universal antagonisms of the prison to protest the conditions of their incarceration, they met concerted state violence from guards who knew that violence was the foundation of

their authority, and keeping prisoners in a state of universal antagonism was the key to their own safety. Yet in the early years of the New Deal Order, reformers decried this personal violence, and aimed to reorganize the structures of authority into impersonal, clean, and bureaucratically regular hierarchies. They have yet to succeed.

Chapter 5

Thirty Minutes Behind the Walls: Prison Radio and the Popular Culture of Punishment

At precisely 10:30 PM, on March 23, 1938, four chimes sounded on Fort Worth Station WBAP, and listeners heard words that in other circumstances, would have struck them with terror: “We now take you to the grounds of the Texas State Prison, in Huntsville.” Instead of a gavel strike or the murmur of a convicting jury, they heard pleasant music rise and fade. No judge spoke to declare a sentence; rather, listeners heard a radio broadcaster’s smooth intonation, and soft music in the background.¹

Good evening, Ladies and Gentlemen.... This evening through the facilities WBAP, Texas prisoners make their air-debut in a series of completely original weekly broadcasts authorized by the Texas Prison Board expressly to acquaint Texas with the excellent talent behind these walls, as well as with the modernized program of rehabilitation recently adopted by the Administration. It will be the purpose of these programs to vividly illustrate what is being done by the Prison Board and the Management to adequately prepare the inmates to reestablish themselves in organized society after their release. It is the sincere wish of the Board, the Management, WBAP, and the prisoners that you find these programs entertaining as well as enlightening....²

¹ This analysis of prison radio offers interesting methodological issues and use of sources. There are no extant recordings of these radio shows. Rather, The University of Texas’ Center for American Houses transcripts of *Thirty Minutes Behind the Walls*’ first three years, from March 1938 through March 1941, though missing shows from October 26, 1938 to February 15, 1939. The transcripts of the program are also available on microfilm. In order to analyze how race functioned in this aural medium, I must work from written transcriptions of the show itself – the sounds of the show are unavailable. Thus there are numerous layers of translation and interpretation through which to interpret. Granting the impossibility of a “pure” or “non-positioned” interpretative or analytical location, one must work with the shreds and patches of the past that remain in existence, the creation of a discourse around a historical and sonic situation must be as subject to analysis as the information the discourse records. Delving into the layers of translation and transcription necessarily poses challenges, and this is especially true for as ephemeral and transitory a force as radio broadcasts, which have long remained a sort of “dead air” in the historical record. Fully acknowledging the methodological risks, I step into this risky silence, and I believe the gains to be made are very much worth the effort.

² *Thirty Minutes Behind the Walls*, Program 1, March 23, 1938.

Texas Governor James Allred strode to the microphone after the professional radio announcer spoke, and informed listeners far and wide that their new radio program, *Thirty Minutes Behind the Walls*, was a bold experiment in penology. But it was also a bold experiment in public relations on behalf of a prison system beset by recurrent public scandal.³ Through the conjoined efforts of WBAP, a commercial radio station, and the Texas State Prison, new penological messages were broadcast over the airwaves along with music and comedy, to instruct listeners in the firm beneficence of Texas prisons. According to the ideology broadcast on the show, Texas prisons were progressive, humane, safe, and above all, *modern*—distant from the putative past of punishment steeped in violence and undue forced labor. If Robert Burns' book and movie *I Was A Fugitive From A Georgia Chain Gang!* contained a progressive critique of southern punishment (replete with the racial contradictions of progressivism), *Thirty Minutes Behind the Walls* tried to recoup popular culture to legitimate penal practice and constitute the listening public in ways that the state and broadcast capitalists found amenable.⁴ Governor Allred followed WBAP representative Nelson Olmstead when he

³ Consider the many complaints about brutality in the Texas Prison System now housed in the Texas State Archives and Library Commission. For example, see Governor Sterling papers, Box 301-467, Folder "Texas State Prison System, Complaints, Feb 12 1931—Sept 15 1932" for such letters on brutality in the prison. For more complaints a decade later, see Governor Stevenson papers, Box 4-14/164, Folder "Texas Prison Board 1942," and Box 4-14/136, Folder "Prison System Referral."

⁴ Robert Elliot Burns, *I Was A Fugitive From A Georgia Chain Gang!* (New York: The Vanguard Press, 1932); *I Am A Fugitive From A Chain Gang* (Warner Bros. Pictures, Inc., 1932). *Thirty Minutes Behind the Walls* also strove to counteract many of the differing and sensationalist representations of banditry, crime and punishment circulating in these years. Claire Bond Potter documents some of the mystique around bandits and bank robbers in the 1930s, as well as the state-sponsored attempts to quash the allure that these figures held in much of the public imagination. *War on Crime: Bandits, G-Men, and the Politics of Mass Culture* (New Brunswick, NJ: Rutgers University Press, 1998). Especially significant, in light of Potter's research on the "Parker-Barrow Gang" was that the fourteenth broadcast of *Thirty Minutes* featured a shamed Gene O'Dare, the former member of Bonnie and Clyde's gang now serving

told listeners that these shows would “prove to be not only *entertaining* but *instructive* as well.”⁵ One such message was of social redemption for the fallen, through new penological techniques, as well as through the technology of radio. One year later, Allred’s successor, Governor Pappy O’Daniel, himself a radio personality, aptly expressed the redemptive possibilities he found in *Thirty Minutes*:

Before the advent of radio, prisoners were exiled. Citizens outside paid little attention to them. But now you hear them talk; you hear them sing; you find out they are sons and daughters of good mothers. You find out that they made mistakes, thus proving that they are human; and thus recalling to our minds that He who gives us the radio, and everything else that we have, is the same One who gave us the assurance and the hope of redeeming our souls after we had made even the greatest mistakes. And if the Great Benefactor ... can forgive the most terrible sinner spiritually, isn’t there some reason in believing that we as human beings should find some method of permitting men and women who make mistakes to redeem themselves and reestablish themselves among us.⁶

Broadcast media constituted a key new disciplinary element emergent under the twentieth century welfare state, which I identify here as part of the popular culture of punishment.⁷ During a period in which inmate labor was increasingly circumscribed by

time. Newspaper representations of prisoners alternated among the murderous escaped criminal who needed stern control, the romanticized bandit, or the innocent victim of a benighted system. J. Edgar Hoover, for his part, was an innovative manipulator of mass media for state ends, penning countless articles, avidly reading comic strips Dick Tracy and Agent X-9 and overseeing the production of another. Hoover promoted the FBI at every turn, “cooperating with movie producers, radio executives, fiction writers, newspaper and magazine sources,” and “virtually any other publicist” interested in promoting the FBI. Kenneth O’ Reilly, “A New Deal for the FBI: The Roosevelt Administration, Crime Control, and National Security,” *Journal of American History*, Vol. 69 No. 3, (Dec 1982): 638—658, esp. 644-5. Reproduced in Melvyn Dubovsky and Stephen Burwood, eds., *The Law and the New Deal* (New York: Garland Publishing, 1990), 136—156.

⁵ *Thirty Minutes*, Program 1, March 23, 1938. The italics are mine.

⁶ *Thirty Minutes*, Program 52, March 15, 1939. O’Daniel placed faith in God and in humane punishment to redeem errant Texans, but his actual practices of legislating for better prison conditions, did not always meet the noble rhetoric he espoused here.

⁷ The popular culture of punishment was not specific to the welfare state or the New Deal Era, and has persisted through different historical and political periods. The Texas prison system was engaged in disciplinary broadcasts that would become increasingly familiar in shows like *Dragnet!*, *Scared Straight*, *COPS*, and *Law and Order* in later years.

New Deal labor movements, prison radio meshed with other popular cultural forms – such as prison athletics and inmate newspapers – to retrain prisoners in disciplinary practices appropriate to a paternalist state while instructing the free world audience in the risks of breaking the law. The new subjectivities that these prisons aimed to create, steeped in the liberal ideologies of consumption, leisure, and athleticism, were at every step consistent with broad transformations in American society.⁸ This essay examines the popular culture of punishment as a contested dramaturgy of social conflict, through analysis of *Thirty Minutes Behind the Walls*, broadcast from Texas’ Huntsville Prison from early 1938 into the war years.⁹

⁸ Warren Susman, *Culture as History: The Transformation of American Society in the Twentieth Century* (New York: Pantheon Books, 1984). The disciplinary effects of mass media and athletics in prisons has largely escaped historians’ and media studies scholars’ attention, despite contemporary debates over cable television and weightlifting equipment behind bars. Though the disciplinary effects (in the Foucauldian sense of retraining bodies and subjectivities in historically-specific forms) of mass media merits thorough analysis, it is only tangentially dealt with here. However, see Blake McKelvey, *American Prisons: A History of Good Intentions* (Montclair, NJ: Patterson Smith, 1977), 137, 261-2, 294; also, Rebecca McLennan, “Citizens and Criminals: The Rise of the American Carceral States, 1890-1935,” Ph.D. Dissertation, Columbia University, 1999, and McLennan, “Punishment’s ‘Square Deal’: Prisoners and Their Keepers in 1920s New York,” *Journal of Urban History*, Vol. 29 No 5, (July 2003): 597—619.

⁹ Numerous scholars have examined punishment as a form of social dramaturgy, analyzing both the forms of punishment and the intended as well as unintended effects of punishment on their audiences. A selection of this literature includes Michael Meranze, *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia, 1760-1835* (Chapel Hill: University of North Carolina Press, 1996); Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996); Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (New York: Cambridge University Press, 1992); Douglas Hay, et al, *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England* (London: Allen Lane, 1975); Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1979); Robert Olwell, *Masters, Slaves, and Subjects: The Culture of Power in the South Carolina Low Country, 1740-1790* (Ithaca: Cornell University Press, 1998); Louis P. Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865* (New York: Oxford University Press, 1989); David Garland, *Punishment and Modern Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990). I build upon these authors’ assessment of intended and unintended consequences, and of the complex processes of subject formation to which these spectacles contributed. While most of these authors focused on visual spectacles, witnessed in person, *Thirty Minutes* brings analysis into the era of mass communication and the realm of sound, rather than sight. With the financial and technological aid of radio broadcasting capitalists, prison radio offered an expansive economy of power to display the condemned.

Thirty Minutes Behind the Walls was a key site through which penal messages were made public. The circulation of punishment via commercial media spectacles was part of a new “penitential imagination,” in Michael Meranze’s terms, in which “the public” understood itself in terms of identity, crime, punishment, and the rule of law as a disembodied form of modern bourgeois authority.¹⁰ Criminologist David Garland has argued that progressive penological reforms, such as parole and probation, signaled the “mesh thinning and net widening” of state control.¹¹ In the progressive reforms of prison radio, the mesh became as thin and light as the airwaves themselves. Furthermore, as an element in the popular culture of punishment, prison radio broadcasts were symbolic events that were less reflections of existing life than they were models for the reproduction of a specific kind of social formation.¹²

With such a view in mind, this essay argues that the Texas State Prison System and its radio broadcasts were institutional contributors to multiple processes of border formation. While enforcing the raced and classed imperatives of anti-black and anti-

¹⁰ Among the many who consider the importance of consumption and the circulation of culture in processes of national, racial, class-based, and gendered identity formation, I draw upon Meranze, *Laboratories of Virtue*; Michael Warner, “The Mass Media and the Mass Subject,” in ed. Bruce Robbins, *The Phantom Public Sphere* (Minneapolis and London: University of Minnesota Press, 1993), 234-256; Warner, “Publics and Counterpublics,” *Public Culture*, Vol. 14 No. 1, (2002): 49—90; Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 2d ed. (New York: Verso, 1991); Lizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919-1939* (Cambridge, UK: Cambridge University Press, 1990); Michelle Hilmes, *Radio Voices: American Broadcasting, 1922-1952* (Minneapolis and London: University of Minnesota Press, 1997); Susan J. Douglas, *Listening In: Radio and the American Imagination, From Amos ‘n’ Andy and Edward R. Murrow to Wolfman Jack and Howard Stern* (New York: Random House, 1999); and Grace Elizabeth Hale, *Making Whiteness: The Culture of Segregation in the South, 1890-1940* (New York: Vintage Books, 1998). On law as the disembodiment of modern bourgeois authority, see Meranze, 15, and Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th-Century American South* (New York: Oxford University Press, 1984).

¹¹ David Garland, *Punishment and Welfare: A History of Penal Strategies* (Brookfield, VT: Gower Publishing Co., 1985).

Mexican Jim Crow law on the Texas side of the U.S.-Mexico geopolitical border was certainly important, (doubly so as ethnic Mexicans were expelled beyond national borders during the Depression), so too did the Texas Prison System enforce more figurative borders of subjective identity. Like Jim Crow law more broadly, the prison functioned to recreate firm boundaries within and among working class cultures and peoples in Texas. The rule of law, and its naked enforcement in the penitentiary, set the racial foundations of national belonging and otherness. In the same years that the New Deal promised a more egalitarian society and to protect the socially excluded, the raced and gendered contours of social hierarchy came into sharp relief.¹³ In prison, they were literally set in stone.

Yet *Thirty Minutes Behind the Walls* was not an univocal production by state officials and broadcasting capitalists, though their voices were certainly dominant. Prison radio created dialogic effects and contests, sounding numerous social confrontations and contradictions pervading American borderlands and their prisons.¹⁴

¹² Richard Flores, *Remembering the Alamo: Memory, Modernity, and the Master Symbol* (Austin: University of Texas Press, 2002), 156.

¹³ Gary Gerstle, *American Crucible: Race and Nation in the Twentieth Century* (Princeton: Princeton University Press), esp. 128—186; Linda Gordon, *Pitied But Not Entitled: Single Mothers and the History of Welfare* (Cambridge, MA: Harvard University Press, 1994). There is an extensive literature on Jim Crow in Texas, but see David Montejano, *Anglos and Mexicans in the Making of Texas, 1836—1986* (Austin: University of Texas Press, 1987); Alwyn Barr, *Black Texans: A History of African Americans in Texas, 1528—1995*, 2d ed. (Norman: University of Oklahoma Press, 1996); Neil Foley, *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture* (Berkeley: University of California Press, 1998). On law as productive of racial difference, see Michael Omi and Howard Winant, *Racial Formations in the United States From the 1960s to the 1990s*, 2d ed. (New York: Routledge, 1994); Ian F. Haney López, *White By Law: The Legal Construction of Race* (New York: New York University Press, 1996); Melissa Nobles, *Shades of Citizenship: Race and the Census in Modern Politics* (Stanford: Stanford University Press, 2000); Theresa Zackodnik, “Fixing the Color Line: The Mulatto, Southern Courts, and Racial Identity,” *American Quarterly*, Vol. 53 No. 3, (2001): 420—451.

¹⁴ Jorge A. González, “Cultural Fronts: Towards a Dialogical Understanding of Contemporary Cultures,” in James Lull, ed., *Culture in the Communication Age* (London: Routledge, 2001), 106-131; M. M.

Foremost among these contradictions were the meanings and performances of race. While racial difference remained a central technology of social control, the very conditions of punishment, and especially, prison radio broadcasts, ensured that differently raced prisoners from the borderland working classes would be forced into close contact with each other. As the spoken words of *Thirty Minutes Behind the Walls* overtly legitimized the sanctity of class and racial hierarchies, the music it carried valorized black, white, and Mexican working class men's lives. And though the pedagogy of prison radio was stark in its delineation of racial difference, the very music it presented was a hybrid of raced musical styles.

Inmates began working on the show at 7 PM each Wednesday. They prepared a script (in conjunction with the prison staff, we might guess) and selected the music.

Inmates rehearsed the numbers as a WBAP employee adjusted the balance and positioned the musicians by the microphones to get the best sound.¹⁵ They timed each

Bakhtin, *The Dialogic Imagination*, ed. Michael Holquist, trans. Caryl Emerson and Michael Holquist (Austin: University of Texas Press, 1981). While Susman argued that American culture in the 1930s was that of a thoroughly hegemonic middle class, I join with Michael Denning's *The Cultural Front: The Laboring of American Culture in the Twentieth Century* (New York: Verso, 1997) in finding more substantial social conflict in the "cultural" realm. But unlike either Susman or Denning, I argue that the popular cultures of punishment in the 1930s should be understood dialogically, as fields of social conflict: contested, appropriated, and made use of in multiple directions by different people, at different times.

¹⁵ The confluence of broadcast capital and state interests in *Thirty Minutes* was striking. In *Telecommunications, Mass Media, and Democracy*, Robert McChesney argues that American broadcast capitalists successfully wrested control of the airwaves from state regulation in 1927 and 1934 on the premise that for-profit broadcasters would sponsor "public-interest" programming on the behalf of states. Governmental regulation of the airwaves was, broadcasters successfully argued, tantamount to totalitarian control of sources of information. *Thirty Minutes Behind the Walls*, and later, California State Prison's *San Quentin on the Air*, broadcast on the Don-Lee Mutual Broadcasting Network, were examples *par excellence* of for-profit broadcasting on the state's behalf. Radio scholar Jason Loviglio agrees, arguing that the for-profit turn toward public service broadcasting "can be seen as a part of a campaign to prevent any rival definitions of 'the public interest' from threatening [the broadcasting industries'] advantageous regulatory and market position." In essence, Loviglio's argument accords with other New Left, New Deal historiography: capital and the state agreed to work together in the best interest of each, and these interests were then called "the national interest." WBAP and the Don-Lee Mutual Network "contributed"

song and segue, and adjusted them to fit the half hour format. Members of the public were invited to attend broadcasts, and streamed into the Huntsville library, (in later years, the auditorium), to see the broadcasts, and would be entertained by prison vaudevillians before the actual broadcast began.¹⁶ By 10:30, after the four chimes rang, *Thirty Minutes* traveled to Houston by wire, where it was sent by transmitter to the big broadcasting antenna in Fort Worth. From there, it traveled across land and sky and into people's living rooms, where families gathered around radios for their weekly trip behind the prison walls.¹⁷

airtime and network channels to "the public good" while securing their own place and importance in the governmentally instituted public sphere. On the March 23, 1938 program, WBAP General Manager Harold "Hired Hand" Hough said it for himself:

Tonight as a representative of Mr. Amon G. Carter, president of Radio WBAP, I bring to you his assurance of complete and continued cooperation of Station WBAP, in the broadcasting of this series of programs.... Mr. Carter feels that a broadcasting station should be operated to serve as many of the people as possible and to that end we pledge the facilities of this station. He is interested in any phase of this series which will be helpful, instructive and educational to those everywhere outside the walls as well as inside the walls. This is not to be a commercial program. The expenses of this program will be paid by the Fort Worth Star Telegram and Station WBAP."

See Robert McChesney, *Telecommunications, Mass Media, and Democracy: The Battle for Control of U.S. Broadcasting, 1928—1935* (New York: Oxford University Press, 1993); Jason Loviglio, "Vox Pop: Network Radio and the Voice of the People," in eds. Michelle Hilmes and Jason Loviglio, *The Radio Reader: Essays in the Cultural History of Radio* (New York and London: Routledge, 2002), 94; also, Susan Smulyan, *Selling Radio: The Commercialization of American Broadcasting, 1920-1934* (Washington, D.C.: Smithsonian Institution Press, 1994).

¹⁶ *Thirty Minutes*, Program 102, February 28, 1940.

¹⁷ See Foucault, *Discipline and Punish*; Linebaugh, *London Hanged*; Olwell, *Masters, Slaves, and Subjects*. Consider how this differs, too, from Tony Bennett's description of "The Exhibitionary Complex" as the mirror image to the 18th century state's panopticism, in which people needed to travel to the museum or the Eiffel Tower to see themselves constituted as a public. In all radio broadcasts, and in prison radio in particular, listeners knew themselves to exist in relation with other listeners, and also with the New Deal state and federal government. Bennett, "The Exhibitionary Complex," in eds. Nicholas B.

The Dramaturgy of Humane Punishment

Without doubt, the Texas Prison Board's primary intent behind *Thirty Minutes Behind the Walls* was to generate positive publicity about the Texas Prison System, and the same was true for California's radio program *San Quentin on the Air*. San Quentin Warden Clinton T. Duffy, widely lauded as a progressive reformer and hired in the wake of a highly publicized guard brutality scandal, gave the following summation of the pedagogical purposes behind his institution's radio broadcast:

The public relations that the prison has put out in this manner has been one of the things that has enlightened the public as to prison conditions.... I think it has been a marvelous thing. We have had thousands and thousands of letters approving the broadcast, and I haven't read one yet that has been against the thing.¹⁸

Interviews with prisoners – known as “human interest” segments in the broadcast – became the primary mode of spreading penological discipline to the listening public. The stated intent of interviews was “simply to present to you a picture of the man in prison—to bring out his viewpoint, his attitudes—to show the various effects of prison upon the man.” Nelson Olmstead, the WBAP representative and

Dirks, Geoff Eley, and Sherry B. Ortner, *Culture/Power/History: A Reader in Contemporary Social Theory* (Princeton: Princeton University Press, 1994), 123—154.

¹⁸ Clinton T. Duffy Testimony, Volume VI: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, 1285. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44, F3640:961. Susan Douglas also argues that intellectuals debated whether radio should be used for either “entertainment” or for “education.” The highbrow/educational advocates, frequently social elites, advocated for the radio's educational and uplift potential of “the masses,” while the more crass advertising executives celebrated the lowbrow potential of entertainment as a way to sell ever more consumer goods to that same “mass” audience. Prison Radio planners sought to use both together: lowbrow entertainment to “hook” the masses they wanted to instruct with the educational/disciplinary features of the shows. *Listening In*, 88. See also Jackson Lears, *Fables of Abundance: A Cultural History of Advertising in America* (New York: BasicBooks, 1994).

primary interviewer for *Thirty Minutes*, explained the rationale behind the interviews in bucolic terms:

We believe that we will be better able to convey to you a picture of prison life as it is lived now in the little world, walled in among the rolling, pine-clad hills of East Texas. And, as you become acquainted with the advanced plan of rehabilitation employed by a prison system modern enough to authorize these unusual broadcasts, we should like you to feel that you are personally acquainted with the prisoners who plan and present them.¹⁹

Almost without exception, prisoners selected to speak on the radio were trustees, and had good jobs, status, and privilege within the prison's administrative hierarchy. Officials could count on them to represent the prison and its officials in the most positive light. If they did not, they risked the modest privileges they had accrued through years of good behavior. Few would take this chance.

Nelson Olmstead guided prisoners through their interviews with frequent and heavy handed questions. Thanks to Olmstead's leading questions, a number of disciplinary themes were evident. Time and again prisoners stressed the regrets they had for breaking the law; they told listeners that crime did not pay; that the prison was better "now" than it had been "then"; and that thanks to the firm kindness of the prison system, released prisoners would commit no more crimes.

A number of different genres emerged from the weekly interviews. First among these was what might be called the "old timer" interview. Consider Olmstead's interview with James L. Warner, who had arrived at Huntsville in 1923:

Olmstead: Warner, what was your impression of the prison in 1923?
Warner: Bad. It didn't take me long to realize it was pretty doggone tough, especially on the farms...

¹⁹ *Thirty Minutes*, Program 16, July 6, 1938.

- Olmstead: Warner, you've seen the good and the bad of it...tell me, what do you think of the improvement that has been made in the prison system as a whole since 1923?
- Warner: They've made great improvements since I came here.... It's more comfortable on the inmates, and they can live a lot better now than they could then.... Oh, it's a whole lot better...in every respect. One thing, they used to just try to keep you from getting' away. Now they try to make somethin' out of a man if the man'll let 'em."²⁰

Another key genre was the “working prisoner” interview. In these segments, select prisoners described the work that they performed in the prison. They gave a short description of what their work consisted of, and how they were being trained for a productive, wage-earning life on the outside. Like the “old timer” interviews, these advertised the benevolence of the instructive state. Nearly all of the prisoners who described their work were engaged in some sort of industrial labor. And, importantly, save for very few exceptions, they were all white.²¹ Thus, the sounds and imagery of the redemptive prisoner, learning a trade and being reformed by the state, was a white, English-speaking man performing industrial labor as vocational training. Agricultural labor (still the mainstay of the prison system), and black and Mexican prisoners (who disproportionately filled its walls and fields), were rendered invisible and silent in the redemptive narrative of progressive prison reform and training.²²

John Adamek was interviewed in the series of prisoners-who-work segments. He was perhaps an ideal inmate to interview, since he worked on the construction crew.

²⁰ *Thirty Minutes*, Program 3, April 6, 1938.

²¹ See below for analysis of racial differentiation on the radio.

²² On the deeply intertwined nature of white supremacy and prison reform in Texas, see Robert Reps Perkinson, “The Birth of the Texas Prison Empire, 1865—1915” (Ph.D. dissertation, Yale University, 2001).

Adamek's was a convenient ideological narrative, conflating architectural control of ever-growing numbers of prisoners (which might as easily have been narrated as a social failure) as part of the humane and progressive state. Thanks to the rapid construction efforts of the prison system, Adamek said that he could lay between seven and eight hundred bricks in an hour, in a straight line. "On foundation work and jobs like that I can easily lay two thousand bricks in an eight hour day." Olmstead took the opportunity to show that while the Texas prison system was building men, it was also expanding and improving on the architectural foundations of humane discipline.²³

An August 24, 1938, interview with Harry McAdams attempted the same ideological maneuvers, but in the end, was somewhat less successful. McAdams worked in the Shoe department.²⁴ He described the productive process – the assembly of these heavy shoes in a Fordist assembly line, in which each worker performed the same task time and again throughout the day. McAdams explained that he and his fellow convict workers made about 140 shoes per day, and 50,000 per year, all used in state institutions. Olmstead asked McAdams, "Do you think you'll know the shoe trade thoroughly by the time you get out?", giving McAdams the opportunity to compliment the prison's industrial training regimen. But McAdams' answer was more ambivalent than Olmstead and prison officials would have desired: "Yes and no. I'll know the part

²³ *Thirty Minutes*, Program 25, September 7, 1938. Indeed, constructing new buildings became something of a fetish in the narrative of prison reform. New buildings signified growth and institutional progress, founded in the construction and partitioning of penal space. These were to be the saviors of an archaic system. But if prison expansion has taught one lesson in the past century, it is that new buildings have not erased the specters of violence, have only temporarily eased overcrowding, and have never "cured" the problem of crime. Then as now, new buildings only created more institutional space, cost greater sums of money, and created a more durable prison system that would itself be harder to change, save for the addition of greater structures and technologies of punishment. Meranze, *Laboratories of Virtue*.

I do now, of course; and I'll be able to hold a job doing it, too. But it would take too long to learn the job thoroughly." By his response, McAdams gave lie to the notion that he was being thoroughly trained in shoemaking, prepared for life and labor in the "free" world. McAdams knew that the "training" he received at industrial labor would only teach the deskilled productive process of repetitive motion on an assembly line. Such training may have helped him find work on an assembly line, or in another shoe factory, but by no means would he leave the prison as a skilled worker.²⁵ Indeed, McAdams likely understood that making shoes at little cost to the state was more important than his vocational training.

As noted above, nearly all of the inmates interviewed and asked about their work did industrial labor. One exception was Mona Bell, a prisoner interviewed not about his work experience, but rather because he had won many events in the Texas Prison Rodeo (described in Chapter 6). Nevertheless, Olmstead did ask Bell about what work he did in the prison. When Bell answered, "I'm working in line—regular farm work," Olmstead suggested that the Bell's physical size and conditioning was the *result* of this forced labor: "Perhaps that accounts for your excellent physical appearance—I'm going to guess your height and weight: You're six-feet-two and weigh two hundred." Olmstead suggested that work on the prison farms thus *created* Bell's impressive body and masculine physique.²⁶ Thus forced agricultural labor was positioned (for this moment, at least), as masculine and redemptive, and constitutive of

²⁴ Foucauldians will enjoy knowing that McAdams worked at the "inner-sole" table in the shoe shop.

²⁵ *Thirty Minutes*, Program 23, August 24, 1938.

²⁶ *Thirty Minutes*, Program 20, August 3, 1938.

strong bodies rather than destructive, enervating, and deadening labor. Of course, Olmstead would never have pointed out the injured prisoners broken from farm work, the many who severed their Achilles' tendons to get out of this labor, or the legislation sponsored by the Prison Board to make a prisoner's cutting of their "heel string" a felony offense.²⁷

Women's labor, too, was described on the radio in a female version of the working prisoner genre. On a few occasions, the tours of the prison system took listeners to the Goree farm, only a few miles away from Huntsville, to feature women prisoners. Reable Childs, a white inmate who often performed on *Thirty Minutes*, explained the women's work regimen: "Every inmate must work ten hours a day at something fitted to feminine abilities...We cook, keep house, raise flowers, do light gardening, milk cows, raise chickens, sew...just the usual farm life for a woman." In addition to making their own clothes, they also made "all the clothes worn by convicts in the system...their discharge suits are tailored here...We make pillow slips, sheets, in fact, everything in that line that is used by the prison is made here." Childs made clear that the work regime for women prisoners was gendered toward labor seen as "feminine" and idealized as bucolic rather than harshly punitive – "the usual farm life for a woman."²⁸ In some contrast, Olmstead also interviewed Julia Brown at Goree, who, judging from the transcription of her "dialect" was raced as black.²⁹ Olmstead

²⁷ See *Thirty Minutes*, Program 13, June 15, 1938.

²⁸ *Thirty Minutes*, Program 106, March 27, 1940.

²⁹ Within transcripts themselves, race was referenced by recourse to malapropism and dialectal transcription for racially-other voices. On racial denigration and textual representation, see Tommy L. Lott, *The Invention of Race: Black Cultures and the Politics of Representation* (Malden, MA: Blackwell

asked, “What kind of work do you do here, Julia?” Her response: “Well, sah, Ah’s done ever’thing here ‘cept the bookkeeper’s job—but right now Ah’s herding watermelons.” Brown’s field work seems to have hardly been the “light gardening” that Childs described. Indeed, in the long history of labor in the United States, black women have frequently and consistently done “men’s” work in the fields, while white women have been expected to be both more domestic and “feminine” in their labor processes.³⁰

The pedagogical narratives of the redemptive welfare state reached its apex in one “errant youth” interview, a suitable opposition to the “old-timers” so frequently featured on the show. Johnnie Carpenter had a clear background of impoverishment, but according to Announcer Byrne, the class-based nature of “juvenile delinquency” was better understood in gendered terms: “Many of the inmates inside the penitentiary are products of broken homes and lax supervision,” thus revitalizing the story that crime was the result of a crisis in the home – caused by un-giving patriarchs and by working mothers who, by necessity or dereliction, left the home to earn a wage.³¹ This “crisis” of the patriarchal family, certainly underway during the Depression, would be

Publications, 1999), 84—110, also, Gavin Jones, *Strange Talk: The Politics of Dialect Literature in Gilded Age America* (Berkeley: University of California Press, 1999).

³⁰ Consider Jacqueline Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family from Slavery to the Present* (New York: Vintage Books, 1995), Tera W. Hunter, *To ‘Joy My Freedom: Southern Black Women’s Lives and Labors After the Civil War* (Cambridge, MA: Harvard University Press, 1997), Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998).

³¹ *Thirty Minutes*, Program 139, November 20, 1940. On the gendered nature of punishment and the fears of disordered (i.e., non-patriarchal) homes as a primary cause of crime, see also Christine Stansell, *City of Women: Sex and Class in New York, 1789-1860* (New York: Knopf, 1986), David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston: Little, Brown, 1971). There is a recent and voluminous literature on the mid- and late-20th century “culture of poverty” debates, in which the “disordered” black families were the new causes of crime. The Moynihan Report is perhaps the best known and most thoroughly critiqued, piece of this very persistent literature.

exacerbated during the war years, when fathers were at war or in industries, and mothers were increasingly in the workforce.³²

Not long after his mother left his abusive father, Johnnie got into trouble at a tender age, when he stole jewelry from a house his mother cleaned. From that point on, he descended into a life of vagrancy and petty crime. Byrne asked, “Didn’t you try to get a job, Johnnie?” Johnnie: “I don’t know no kind of work...I never had no job.” Byrne, in full pedagogical swing, asked “Don’t you want to be a credit to your government?” Johnnie, perhaps a brilliant actor, or perhaps astoundingly ignorant, asked, “What is a government?” Byrne responded with full paternalist condescension: “We’ll let that pass, Johnnie....” With that, the interview shifted to the educational and vocational opportunities at Huntsville – Johnnie explained “[T]he officials told me I can go to trade school and learn how to get a job. Maybe I can get a job and be rich.”³³

And the interview ended on this hopeful note. Here, then, was the answer to Johnnie’s question: *what is a government?* It was the paternalist Texas prison, the stern but fair father that he never had, the mother that would teach him to do right. This, at least, was the message of the program. But the promises made were little more substantial than the ether that carried Johnnie’s voice across the land. Education for prisoners was drastically underfunded, the vast majority of prisoners did either backbreaking agricultural labor, whose “free world” wages were almost nil, or de-skilled repetitive factory production. The few who learned trades in the prison, it

³² See Marilyn S. Johnson, *The Second Gold Rush: Oakland and the East Bay in World War II* (Berkeley: University of California Press, 1993).

³³ *Thirty Minutes*, Program 139, November 20, 1940.

seems, were those white prisoners who already had some economically-valued skill sets that overlapped with the jobs themselves – the educated worked as bookkeepers or in the print shop, the trained mechanics worked as mechanics, the plumbers as plumbers. The unskilled worked chopping cotton and hoeing roads, the uneducated, and the racially marked, dug ditches and planted crops. Like Julia Brown, they would not work in the bookkeeper’s office.

The Sound of Race

Thus far analysis has centered on the pedagogical and disciplinary intents of *Thirty Minutes Behind the Walls*, and specifically in the state and capital’s desire to craft a public sphere that respected the rule of law, the sanctity of property relations, and understood the state to be fundamentally beneficent. Equally important in this lesson was the crafting of racial hierarchies. As a cultural performance and a state- and capital-sanctioned event, *Thirty Minutes* aimed to conjure into being the world it represented, or at least to lead outside listeners to believe that it accurately represented conditions in the prison. And the primary story of the beneficent state was fundamentally raced as white. White prisoners, even white “ethnic” prisoners, were the primary objects of redemption and saving, while black and ethnic-Mexican prisoners were eclipsed from these redemptive tales. Thus blackness and Mexicanness were produced as racial categories in opposition to the redeemable white prisoner. This was effected through the granting or denial of voice on the radio, as a symbolic participation or exclusion in the redemptive penitential imaginary.

But the question remains: how did Texas prison inmates and officials perform racial identities on *Thirty Minutes Behind the Walls*? Michelle Hilmes and Alexander Russo argue that radio broadcasters confronted new problems in representing racial difference aurally.³⁴ How were listeners to know to whom they were listening?³⁵ And what does this tell us about the nature of racial power in the New Deal years?

Two narrative voices framed *Thirty Minutes Behind the Walls*. The first was Nelson Olmstead's, the professional radio man who commuted from Fort Worth to Huntsville for each week's show. As represented in the written records of the show – the only records that remain – Olmstead's voice offered a clear, middle class, and authoritative transcription. He rarely misspoke, and never used an incorrect word. His voice is represented as lacking any accent at all. This unmarked voice – the framing narrator – was the unmarked voice of white, male, normativity, asking the questions and guiding the answers that inmates gave.

³⁴ Alexander Russo, "A Dark(ened) Figure on the Airwaves: Race, Nation, and *The Green Hornet*," in Hilmes and Loviglio, *Radio Reader*, 271, and Hilmes, *Radio Voices*. Also see Derek W. Vaillant, "Sounds of Whiteness: Local Radio, Racial Formation, and Public Culture in Chicago, 1921–1935," *American Quarterly*, Vol. 54 No. 1, (March 2002): 25–66. Vaillant rigorously analyzes Chicago neighborhood alliances and the minimization of white ethnic difference and creation of Americanism against the bigger Other of sonically-reproduced blackness – a validation of Hilmes' thesis in *Radio Voices*. But despite the title of Vaillant's piece, he does little to assess how sound came to stand for raced bodies and communities.

³⁵ See Hilmes, *Radio Voices*. This wasn't a question that only white producers worried about. Barbara Dianne Savage's analysis of *Freedom's People*, one of very few African American-produced shows, demonstrates that black producers, too, for political reasons, wanted their narrator's voice "to be a 'colored' voice." Even after the Advisory Committee for *Freedom's People* was assured that the narrator would speak in a "fine, rich, mellow voice," they were concerned that Frank Wilson, the black stage actor, "sounded too much like a white man." Here, the lack of markedly black-raced dialect, which signified educational and class status, was feared to sound *not black enough* for the political aims of black self-representation. Later, Canada Lee and Juan Hernandez (despite Hernandez's "Latin" name), were deemed to have "more characteristically Negro" voices, and also narrated *Freedom's People*. The difficulty in finding an appropriate-sounding "black" voice here spoke to class distinctions in the politics of respectability and representation among black activists. Barbara Dianne Savage, *Broadcasting*

A specially selected inmate announcer provided the second narrative voice. Inmate announcers changed as some auditioned and others were paroled, but one such announcer, Harold Veach, offers an instructive example of which sort of prisoner constituted this normative voice. Veach was born in Kentucky, but had lived in Dallas for most of his life. He worked as a banker for four years, an “insurance man” for six, a field engineer’s assistant for two, and a public accountant for a year. Veach’s principal job in Huntsville was as a bookkeeper in the Chief Accountant’s Office.³⁶ From this brief biography, we can see that the inmate announcer, too, was a white collar man. He had at least some education and, judging by occupational experience, was at least middle class. This was the man who framed the voices and songs on the radio show, and positioned them to the listeners as raced, classed, and gendered subjects.

Inmate announcers employed three main codes to racially mark prisoners’ voices and performances, with greater or lesser degrees of subtlety. One was through the invocation of phenotype; a second was through reference to spatial location in the American social imaginary; and the third was through references to types of inmate labor.³⁷

First, racial categories were marked when the announcer would “paint a word picture” (in the parlance of the time and media) of the raced phenotypes of the performers. Thus announcers tried to represent the visual features of black performers

Freedom: Radio, War, and the Politics of Race, 1938—1948 (Chapel Hill: University of North Carolina Press, 1999), 73—74.

³⁶ *Thirty Minutes*, Program 66, June 21, 1939.

³⁷ As noted above, the *Thirty Minutes* transcripts recorded racial difference through dialectal transcription, while leaving white, middle class, normative speech unmarked.

to mark their racial identities, and these clearly blended with the circulating cultural representations of African Americans in minstrel show traditions. Though the radio program *Amos 'n' Andy* was past its prime by the late 1930s, and minstrel shows and vaudeville were on a slow decline, spoken descriptions of black prisoners would have immediately resonated with the representations of blackness made popular by these popular cultural forms. In this sense racialized phenotype and previous racist visual representations condensed in aural description of raced bodies. Thus, on the August 24, 1938 broadcast from Huntsville, Ace Johnson, the “harmonica wizard” and staple performer on the show, was referred to as “a grinning, ebon-skinned Negro” who “shuffle[d] up to the microphone to wait for his cue.”³⁸ The tropes of ebon-skin, and of shuffling and grinning, drew directly from the minstrel traditions of blackface. In explicit contrast, Ocie Hoosier, who, like Ace Johnson, frequently played the harmonica, was constantly referred to as “our red-headed harmonica player.”³⁹ It was highly significant that the announcer made sure to distinguish between Hoosier and Johnson – both played harmonica, both played the blues as well as other “novelty” numbers, and both surely spoke in a southern drawl that sounded more similar than most white southerners would care to admit.

At other times the references to phenotype were less vivid, as when singers Billie Douglas and Hattie Ellis were introduced as “a duo of Negro girls from Goree Farm.”⁴⁰ In this case, the singers’ racial identities were explicitly named rather than the

³⁸ *Thirty Minutes*, Program 23. August 24, 1938.

³⁹ *Thirty Minutes*, Program 15, June 29, 1938; Program 114, May 22, 1940; Program 120, July 3, 1940.

⁴⁰ *Thirty Minutes*, Program 18, July 20, 1938.

phenotypical signs of race referred to. Or, the announcer would introduce the “White Quartette,” in order to differentiate them from the “Harmony Kings,” who performed “Negro Spirituals.” Remaining transcriptions make clear that the announcer was sure to distinguish between the “White Four,” who, on April 19, 1939, sang “How Beautiful Heaven Must Be” and the “Negro Four,” who sang “Ride On, King Jesus” just a few minutes apart.⁴¹

In addition to descriptions of phenotype or unsubtle mentions of “white,” “Negro,” or “Mexican” musicians, the announcer referenced race through spatial code words. Just as the concrete locations of punishment in the Texas Prison System were distinguished through racial segregation – through the *Mexican Unit* at Blue Ridge, the *Negro Ramsey Farm*, the *white Harlem Farm*, so too were the performances of race music indexed to spatial locations. Humberto Boone, from the Blue Ridge Farm, thus was introduced as singing music from “South of the Border,” or from “manaland(sic).” Time and again listeners were told that when they heard the Negro Choir sing a spiritual, they were being taken on a “tour of Darkyland,” or that they would hear something “[f]rom the cotton fields in the vast acres of the Texas Prison’s farm lands.”⁴²

Indeed, cotton fields were a particularly powerful spatial referent of black racial identity, and did much more than just make note of a place. The racially-denigrated qualities of the actual work of picking cotton blended the long memory of slavery and forced labor in the cotton harvests that drove the antebellum southern economy. Behind

⁴¹ *Thirty Minutes*, Program 57, April 19, 1939.

bars, too, labor assignment was an important signifier of racial difference. Further, as white cotton sharecroppers were increasingly driven from their land by boll weevils, mechanization, and the Agricultural Adjustment Act, cotton farming was an increasingly racialized form of labor, done by blacks, Mexicans, and degraded “white trash,” in Texas, and by immigrant Mexican workers, Filipinos, and “Okie” newcomers in California’s expanding cotton industries.⁴³

References to “South of the Border” or music from “old Mexico” for *Thirty Minutes’ Mexican Stringsters*, connoted racial formation of Mexicanness.⁴⁴ In a broader creation of what might be termed as Latino racial formation, announcers referred to the exoticism of Cuba, and conflated Cuba with Mexico in a representation of a “Latin” racial identity. On January 24, 1940, the announcer introduced the following: “Now, folks, let's take a trip to romantic Old Mexico with Epi Varones, Mexican Songstress, who is a newcomer to our program. With the aid of Humberto

⁴² *Thirty Minutes*, Program 2, March 30, 1938; Program 118, June 19, 1940.

⁴³ Neil Foley, *The White Scourge: Mexicans, Blacks, and Poor Whites in Texas Cotton Culture* (Berkeley: University of California Press, 1998). On the cotton industry in California, see Devra Weber, *Dark Sweat, White Gold: California Farm Workers, Cotton, and the New Deal* (Berkeley: University of California Press, 1994). The re-created memory of slavery and cotton agriculture was condensed in the name “The Cotton Pickers Glee Club,” for the Negro Choir formed by Texas Prison General Manager Lee Simmons in the first years of the 1930s. Lee Simmons, *Assignment Huntsville: Memoirs of a Texas Prison Official* (Austin: University of Texas Press, 1957), 108-113.

⁴⁴ In *Walls and Mirrors*, David G. Gutiérrez articulates an idea of ethnic Mexicanness as a term to describe people of Mexican descent, regardless of citizenship status in the United States. This category can be broken down to differentiate between those born in the United States and self-identifying as Mexican American, and new series of more recent immigrants without US citizenship status. While lawbreakers who could not prove their status as US citizens were sent to the US Immigration Services for deportation, Mexican Americans in Texas were predominantly imprisoned at the Blue Ridge Farm. Nevertheless, these prisoners were referred to simply as *Mexican* by radio announcers, conflating racial identity with national affiliation as a marker of spatial/racial/national difference. Thus American nationality and citizenship were linked with whiteness, as Mexicanness was positioned as one of particularly-marked discursive opposition. *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity* (Berkeley: University of California Press, 1995).

Boone and his Cuban Band she brings you... ‘Cielito Lindo.’”⁴⁵ But perhaps there was something more significant in the spatial references to Old Mexico and locations South of the Border for ethnoracial Mexicans in the United States. Ethnoracial Mexican identity was thus positioned as *outside* of the national territory of the United States. Thus to be ethn racially Mexican, whether born in the U. S. or not, was to be a national foreigner, and this expulsion of Mexicanness from the racial national imaginary worked in dialogic relation to “repatriation” of ethnic Mexicans during the depression.⁴⁶ Interestingly, there were few references to Mexican identity through phenotype, save for a mention of the song “Emelia” in which the announcer told listeners that “caballeros” serenaded “black eyed señoritas(sic).”⁴⁷ This lack of phenotypical reference may have signaled the tenuous middle ground that ethnoracial Mexicanness occupied in the Texas carceral imaginary, where the dominant racial binary of black versus white somewhat eclipsed the Anglo-Mexican dyad. In the penal context, Mexicans were clearly not black, but still remained at great remove from whiteness. Conversely, in the sonic medium of radio, Spanish language may have been all the marking necessary in the aural creation of the raced nation.

Working class whiteness, too, was spatially located in the popular culture of punishment. On the 10th broadcast, Jack Ramsey was introduced as a “cowboy vocalist.” “Jack’s a cowpuncher, and he chooses a number reminiscent of his former

⁴⁵ *Thirty Minutes*, Program 97, January 24, 1940

⁴⁶ Gutiérrez, *Walls and Mirrors*; George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture and Identity in Chicano Los Angeles, 1900–1945* (New York: Oxford University Press, 1993).

⁴⁷ *Thirty Minutes*, Program 123, July 31, 1940.

calling—“Out on the Texas Plains.”⁴⁸ Here, whiteness was embodied in the Texas imaginary through the figure of the cowboy, riding the wide open spaces Texas plains. White prisoners were thus made into ruggedly individualistic cowboys, while black prisoners were discursively returned to antebellum cotton fields.⁴⁹

The Meaning Of Race

The significance of voice, and the ability to speak proved to be a crucial measure of how *Thirty Minutes Behind the Walls* structured racial hierarchies. In terms of format, *Thirty Minutes* was primarily divided into musical numbers and “human interest” interviews with prisoners. And this division consistently mapped with a differentiation between racialized and white inmates. In other words, musical numbers could be played by the (white) Rhythmic Stringsters, by the (black) Hot Jivers, or by the Mexican Stringsters. But almost without exception, Nelson Olmstead only interviewed white prisoners in the self-described “human interest” section of the broadcast. Racial difference proved to be the hinge around which redemption or social exclusion turned.

The interviews with prisoners described above, such as Johnnie Carpenter or John Adamek, showcased the progress select inmates made toward reintegration into society as industrial workers and productive citizens. Their bodies were never

⁴⁸ *Thirty Minutes*, Program 10, May 25, 1938. Note: The transcript for this show reads “March 25,” but this is clearly an error from the order and date of broadcasts. Similarly, inmate performer Nub Lynch was known as “The Cowboy Yodler.” *Thirty Minutes*, Program 152, February 19, 1941. Also Malone, *Country Music, USA*, 137-175. Of course, this eclipsed the history of Mexican vaqueros and black cowboys in Texan cattle culture, and elided the flight of many poor whites from cotton sharecropping.

⁴⁹ In addition to the open spaces of the American West, whiteness was sometimes described through reference to the “hills” as white musicians played “hillbilly music” from the Ozarks or Appalachia. See *Thirty Minutes*, Program 2, March 30, 1938, for one example.

explicitly marked, thus indicating that they were white. The intended message was clear – white, English speaking, males, who learned industrial trades, were the subjects of interviews and the beneficiaries of social redemption. While listeners heard the voices of redeemable white men, they were also entertained by black and Mexican inmate musicians, who were consistently denied social inclusion, and relegated to the prison system’s dishonored and brutal agricultural fields.

However, on the rare occasions when black or Mexican prisoners were able to speak, announcers did their best to contain and alienate them. Such was the case in Candelario Salazar’s interview. Olmstead begged the listeners’ forgiveness on Salazar’s behalf, as Olmstead condescended to struggle with the foreignness of Spanish. “[B]ecause he neither reads nor writes English, and speaks it only with the greatest of difficulty, we are going to ask you to be patient whenever he seems to stumble or falter in answering the questions we shall ask him. Now: Do you mind if we use your name?”

Salazar: No—I do not....It is Candelario Salazar.

Olmstead: I promised to spend all of last week learning to pronounce that name—Candelario Salazar...is that right?

When Olmstead asked Salazar about the work he did prior to incarceration, Salazar quickly undermined Olmstead’s claims to his implicit foreignness (as well as supposed inability to speak English): “Oh, I just do anyt’ing—farming—work in a foundry—and I fight in the World War, too!” By making this short reference to his presence as a soldier in the U. S. military, and as a veteran of the Great War, Salazar made claim to American nationality, valor, and patriotism.⁵⁰

⁵⁰ *Thirty Minutes*, Program 6, April 27, 1938.

Candelario Salazar was one of a very few Mexican-raced prisoners permitted to speak on *Thirty Minutes Behind the Walls*. And this very fact might encourage us to take Gayatri Spivak's question literally: can the subaltern speak?⁵¹ On prison radio, they could typically only do so with their instruments. Consider the following, when Ace Johnson, the "harmonica wizard" was present on the show. According to the announcer:

And here's another of our Negro entertainers—Ace Johnson, a strapping, six-foot Darky with an educated harmonica. He says the little instrument does everything but talk. But be listening, Folks, in case it does do a little bit of off-the-record speaking. Okay, Ace—we're ready for that demonstration you promised us.⁵²

The following song was listed in the transcription as a "Harmonica Novelty." That Johnson's song lacked a formal, commodified name implies that it was perhaps one that he had composed. Whether this was an established song or one he had invented, this was an important symbolic moment for black representation in the public generated by prison radio. Johnson, one of the single most featured musicians on the show, was not permitted to speak for himself. His harmonica and musical skills gave him presence in the radio and on the air, and announced himself as a skilled and human being, but even

⁵¹ Gayatri Spivak, "Can the Subaltern Speak," in eds. Cary Nelson and Lawrence Grossberg, *Marxism and the Interpretation of Culture* (Urbana: University of Illinois Press, 1988), 271-313. Barbara Dianne Savage also describes the denial of black speakers' "voice" on radio broadcasts as a central feature in the politics of representation, and in state-oriented anti-racist political movements. Performing a speaking role on the radio would indicate parity in "the symbolically equalizing formality of political discourse," and this role was systematically repressed. *Broadcasting Freedom*, 198, 200. Hilmes is particularly adroit in her discussion of the exclusion of black voices from radio, other than strictly contained as "entertainment" for white audiences, thus constituting a mass white identity against this othered blackness. Susan J. Douglas complicates Hilmes' story about white racial formation in strict opposition to ridiculed blackness, arguing that radio broadcasts of "black" music and humor was also a source of affection, desire, and identification for white listeners. Hilmes, *Radio Voices*, 75-96; Douglas, *Listening In*, 18-19, 106-110; also, Eric Lott, *Love and Theft: Blackface Minstrelsy and the American Working Class* (New York: Oxford University Press, 1993).

in this very public case, *he was forced to acknowledge that his harmonica could not speak* in ways that were recognizable as such.⁵³

But formal speech can be a limiting source for historians. Though black prisoners were consistently represented as a homogeneous group, united by phenotype, malapropism, and spatial location in the American social imaginary, the music black prisoners played revealed a range of identifications in diverse politics of style. Though the Hot Jivers and the Negro Choir were equally marked with the tropes of blackness, their musical performances of jazz, blues, or gospel signaled the heterogeneous strategies and cultural affinities (be they spiritual, secular, rural, urban, classed, gendered, or some combination of all of these) that black prisoners articulated in order to survive. The infrapolitics and strategies expressed through music had different effects than did, say, food strikes or work slowdowns in the fields, but nonetheless expressed that different black prisoners claimed a number of ways to do their time. Though their effects are hard to gauge, gospel, blues, and jazz all provided grounds for different communities to coalesce according to stylistic predilection and the politics embedded within them.⁵⁴

⁵² *Thirty Minutes*, Program 24, August 31, 1938.

⁵³ In an interesting alternative moment, inmate announcer Bill McCumber said he'd heard that Johnson called his harmonica "Daniel." McCumber asked if the name referred to Daniel in the Lion's Den – Johnson assured him that it did not. I, for one, envision Johnson's denial as one of strategic dissimulation. It would make perfect sense for Johnson to refer to his harmonica, the source of definite pleasure and release from incarceration, as well as prestige and public (musical) presence, as an ally when he was in the jaws of the Texas Prison System.

⁵⁴ On the differential politics of each style of music, see LeRoi Jones/Amiri Baraka, *Blues People: Negro Music in White America* (New York, William Morrow and Company, 1963). On infrapolitics, see Robin D. G. Kelley, *Race Rebels: Culture, Politics, and the Black Working Class* (New York: The Free Press, 1996), 8–9; and on the politics of style more broadly, Dick Hebdige, *Subculture: The Meaning of Style* (London: Routledge, 1997[1979]). Among historians of southern criminal justice, Mary Ellen Curtin is particularly astute in mapping the many oppositional strategies black prisoners used in the convict lease

Consider also the episode on November 1, 1939: Charlie Jones and Louie Nettles had performed as clowns at the prison rodeo. Both were black prisoners – one doing life and the other 10 years. After numerous letters requesting their presence, they performed under the names “Fathead and Soupbone” on *Thirty Minutes*. Their routine was perhaps typical of radio blackface popularized by *Amos ‘n’ Andy* – exaggerated “negro” dialect, buffoonery, malapropisms, clever wordplay, and so forth. One example, however, was particularly important:

Fathead: Looka’ here, Soupbone. Did I tell you what happened to me out dere at de Rodeo grounds one Sunday?
 Soupbone: Go on, Fathead, tell me whot happened to you.
 Fathead: Well, you see I was a clowning out dere befo’ all dem milluns o’ white folks, an’ wuz actin’ kinda smart and graceful you know. When all of a sudden one of dem big Brahma bulls broke loose an’ started toward me.
 Soupbone: He did, an’ whot did you do Fathead.
 Fathead: I started to gittin’ away from there in a hurry. I made a big razzo fo de fence, and I busted right into one o’ dem big men whot was wearing one o’ dem big hats. Well, I hit him so hard I bet he thot it was dat Brahma Bull instead of me.
 Soupbone: I’ll bet yo’ got into a jam, did’nt yo’?
 Fathead: I sho’ did, but I come out of it alright.
 Soupbone: How’s dat, Fathead?
 Fathead: Well yo’ see, I gets up off de top o’ hem and he gets up an’ we both brush de dirt from our clothes, an’ he sez... “Look here, don’t you know I am?”
 Soupbone: Whot did yo’ say then, Fathead?
 Fathead: I sez no I don’t know who yo’ is...an’ he sez, “I’m the governor, that’ who I am.”
 Soupbone: Lawd have mercy on you! I bet yo started runnin’.
 Fathead: Oh no, I didn’t. No No!
 Soupbone: Well whot in de world did yo’ do then, Fathead?
 Fathead: I jes’ sez in de mokest sweetest voice I knew how. “Pardon me Governor...”⁵⁵

period. *Black Prisoners and their World, Alabama, 1865—1900* (Charlottesville: University Press of Virginia, 2000).

⁵⁵ *Thirty Minutes*, Program 85, November 1, 1939.

Here, then, was a comic story offered by two black inmates who had worked as rodeo clowns, and as such they were trickster figures, as well as objects of racial scorn and emblems of white bigotry. But their status as clowns enabled them to tell a story in which a black, thoroughly degraded convict knocked down the very figurehead of state authority. “Fathead” dirtied the Governor on the ground, and the gendered implications and power inversions of a black convict laying on top of the Governor, must have been clear. As they dusted themselves off, each stood in relative, dirtied, equality. And as the Governor attempted to instill terror in this man by reasserting social hierarchy, Fathead verbally turned the tables, and tried to trick the governor into setting him free through an inadvertent pardon. By assuming the racialized, mass mediated voice of blackface minstrelsy, Fathead made the usually silent nature of insurgent joking very, very public, mocking his keepers for listeners across the land.⁵⁶

Yet the form of oppositional culture operant here is certainly less idealized when seen in the fuller context of the radio sketch. Earlier in the performance “Fathead” joked that he’d been sent to prison for life because he left his wife. The character Soupbone was incredulous. “You mean they give you life fer goin’ off an’ leavin’ your wife?... How did you leave your wife?” Fathead: “Why I left her dead!” This context of spousal abuse and murder – whether factual in this man’s life or not – was also the subject of morbid humor. Misogyny was a widespread element of prisoners’ performances of masculinity, regardless of race or ethnicity. In this case, one

foundation of Fathead and Soupbone's oppositional practice against a racist criminal justice system was steeped in either a symbolic or quite material condition of domestic violence.⁵⁷

The problematics of racial representation and oppositional culture cut deep. Indeed, the only way for a black prisoner to speak in the public sphere of the radio, in the performances of the excluded but redeemable members of the body politic, was to perform a blackface racial ventriloquism. Louie Nettles and Charlie Jones had no public voices as themselves, but as the minstrel characters Fathead and Soupbone, they did. Just as Ace Johnson's harmonica could almost, but not quite, speak. It seems that there were two ways to be a public black prisoner. One was to perform the stereotypical tropes of blackness drawn from the public imagination of *Amos 'n' Andy* and the traditions of minstrelsy. The second was to be a skilled musician playing the blues, spirituals, or jazz that WBAP producers and prison officials saw as useful in marketing their penological message. By playing these roles, these inmates performed the popular culture of punishment, displaying a penal system rooted in slave economies, centrally organized around racialized forced labor, and attempting to contain the contradictions of a global capitalist system in crisis. Yet within the fractured interstices of the popular culture of punishment's repressive effects, prisoners also circulated a

⁵⁶ James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1985), and *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990); Kelley, *Race Rebels*.

⁵⁷ *Thirty Minutes*, Program 85, November 1, 1939. Let me be clear to point out that this wasn't just a black male strategy. Misogynistic humor and hyper-masculinity was common in other prisoner-authored sources. "Humorous" segments in the white-authored Huntsville *Echo* newspaper, and a large number of Mexican American corridos and canciones were also based on the subordination of women and

counterpublic with messages alternative to those of the carceral state.⁵⁸ Black prisoners, like the ones described above, expressed their self-worth and dignity in a social formation and disciplinary context that asserted that they should have none.⁵⁹

Music, Working Class Hybridity, and Counterpublic Appeal

In contrast to the pedagogy of the spoken word in prisoner interviews, which broadcast messages of white redemption and black and brown exclusion from the New Deal State, the music that Texas prisoners performed demonstrated the unstable potential of the prison broadcasts in mediating racial difference. *Thirty Minutes Behind the Walls* crafted a space in which working class, poly-racial music floated over the airwaves. The space of the thirty minute program was very much racially integrated – *despite but also because of* the prison’s efforts to maintain racial difference. More critical still, the very music itself provided territory for cultural exchange and fluidity. In his cultural history of the 1940s, George Lipsitz argues that black and white music “had always grown through creative fusions” with each other. White country musicians like Gil Tanner and the Skillet Lickers played Dixieland jazz numbers, just as African American bluesmen like Blind Willie McTell brought country songs into their

effeminate males. See Manuel Peña, *The Mexican American Orquesta: Music, Culture, and the Dialectic of Conflict* (Austin: University of Texas Press, 1999).

⁵⁸ On locating subaltern agency within the interstices of the historical record, see Emma Pérez, *The Decolonial Imaginary: Writing Chicanas into History* (Bloomington: Indiana University Press, 1999). On different people’s interventions in the contests over the publics and counterpublics generated by popular culture, see Warner, “Publics and Counterpublics.”

⁵⁹ On dignity as a category of analysis, see Luis Alvarez, “Of Pachucos, Hep Cats, and Social Horizons: Zoot Suits, Masculine Bodies, and the Politics of Dignity During World War II,” unpublished manuscript, in author’s possession.

repertoires.⁶⁰ Historian Edward L. Ayers refers to polyracial musical roots in simple terms when he writes that “[t]he genealogy of Southern music is tangled.”⁶¹ It is even more tangled in the Texas borderlands.

Musical production on *Thirty Minutes Behind the Walls* was a deeply hybrid assemblage of musical styles and genres, where rampant stylistic borrowing, love and theft occurred, where prisoners-turned-musicians listened to and learned from each other.⁶² This learning and contact was by no means unidirectional; black musicians played with and surely learned from those identified as white and as Mexican, just as whites appropriated black and Mexican musical styles. Musical aesthetics interpenetrated behind the walls, just as they had long done in the “free world.” Music provided a location where identities became fluid and could intermingle – though never without numerous elements of power being expressed. The cultural exchange of the Texas borderlands was always laden with power and conflict, but also, with transgressive potentials of communication and community formation.⁶³ The performances of raced music among a multi-racial, working class, inmate population,

⁶⁰ George Lipsitz, *Rainbow at Midnight: Labor and Culture in the 1940s* (Urbana: University of Illinois Press, 1994), 312.

⁶¹ Edward L. Ayers, *Promise of the New South: Life After Reconstruction* (New York and Oxford: Oxford University Press, 1992), esp. 377; see also Bill C. Malone, *Country Music, USA* (Austin: University of Texas Press, 1985), 4-6.

⁶² Lott, *Love and Theft*.

⁶³ Lipsitz, *Rainbow at Midnight*, 303—333, esp. 309-313. Also, González, “Cultural Fronts.” Furthermore, as in Michael Warner’s re-theorization of public spheres, I argue that the text-based public messages of *Thirty Minutes* were aligned to the state-oriented messages of discipline, while the affective and embodied community generated by musical segments accessed a potential counterpublic. Michael Warner, “Publics and Counterpublics,” esp. 83—84, 86—89.

blurred the boundaries of identity even in the context of a location that enforced those identities with the rule of law, and performed them as technologies of social control.⁶⁴

On *Thirty Minutes Behind the Walls*, Spanish speakers sang in English and English speakers sang in Spanish; the Mexican Stringsters played the 19th century-Austrian patriotic march-turned western swing hit “Under the Double Eagle,” and black prisoners sang “white” pop tunes at listeners’ requests.⁶⁵ Ace Johnson, who had typically been relegated to playing songs labeled as “harmonica novelties,” also played with the white Rhythmic Stringsters, as when he joined bass player Happy Weeks and guitarist Woody Stansberry to play Euday Bowman’s ragtime piece “Twelfth Street Rag.”⁶⁶

The “Mexican tenor” Humberto Boone joined the Rhythmic Stringsters to sing “Mexicali Rose,” which the announcer identified as “a beautiful Borderland tune.”⁶⁷ So

⁶⁴ This is an exceptionally difficult argument to prove, given the disciplinary parameters of historical research. The rules of evidence (and there is a great deal of cultural work that goes into validating what is and is not historical fact), dictate that I focus research on the culturally sanctioned facts of words transcribed in the historical record: in this case, these were the interviews, which proved to be heavily laden with ideological baggage legitimizing the state and capital’s politics (though not free from contradiction). In the extant transcripts, only the names of songs were recorded, rather than the songs themselves, and arguments about music’s subversive potential and the interplay between identities and allegiances, must remain tentative among material that is skewed toward the state’s representations. So too must assessment of audience response be tentative.

⁶⁵ *Thirty Minutes*, Program 152, February 19, 1941. Indeed, that Hattie Ellis, the “blues singing negress,” took requests and sang Judy Garland’s “Over the Rainbow” (on Program 108, April 10, 1940), speaks well to cultural fluidity in music behind bars. It also challenges the historiographical notion that prisons were repositories of undiluted folkloric culture, as investigated by various folklorists in the middle decades of the twentieth century. Understanding of the ways that popular culture crossed prison walls similarly complicates the totality of “total institutions.” See John A. Lomax and Alan Lomax, *Negro Folk Songs as Sung by Lead Belly* (New York: The Macmillan Company, 1936); Bruce Jackson, *Wake Up Dead Man: Afro-American Worksongs from Texas Prisons* (Cambridge, MA: Harvard University Press, 1972), Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (London: Penguin Books, 1961). On the western swing version of “Under the Double Eagle,” see Lipsitz, *Rainbow at Midnight*, 322.

⁶⁶ *Thirty Minutes*, Program 84, October 25, 1939

⁶⁷ *Thirty Minutes*, Program 66, June 21, 1939.

too did Herman Brown “forsake... his native tongue” to sing in Spanish. “Herman’s fellow inmates tell him he sounds almost too natural” opined the inmate announcer, “but you decide as he offers—‘El Rancho Grande.’”⁶⁸ Brown’s voice thus gestured toward Spanish while the announcer made clear that this wasn’t his “natural” language. Nevertheless, Brown clearly felt some longing to perform in Spanish. This surely combined both the deleterious appropriation of Brown’s popular-culturally mediated images of Mexicanness as well as his own sincere desires to be white-with-a-difference through Spanish. That other white inmates ridiculed Brown for sounding “too Mexican” also bespoke the persistent racism that coupled with Brown’s sentiment.⁶⁹ To be sure, music on *Thirty Minutes Behind the Walls* did not create a utopian and egalitarian space in which racial power disappeared. We invalidate the concept of hybridity if we evacuate it of the power relations that were reconstituted in Herman Brown’s performance, and in his peers’ ridicule.

Two performers particularly embodied the racial contradictions and fluidity manifest through musical production, and presented cases where the bounded sounds of race overlapped. First, consider Ocie Hoosier, one of the harmonica players discussed above. On one show he was introduced as a “red-head—with a harmonica in one hand and the blues in the other, this Dallas boy, Ocie Hoosier, blows hot and cold in a novelty number: ‘Deep Elm Blues,’” a song about the mostly-black neighborhood and “red-light district” in Dallas.⁷⁰ Hoosier, like Ace Johnson, played blues, or at least

⁶⁸ *Thirty Minutes*, Program 63, May 31, 1939

⁶⁹ Lott, *Love and Theft*.

⁷⁰ Malone, *Country Music, USA*, 9.

blues-inspired music, and played it well. Had Hoosier spent much time in Deep Elm? What his relationship may have been with the black-raced spaces of Dallas is open to conjecture about his appropriation of “blackness” and blues music to express his own contextually-located, poor, white anxieties and sense of himself in the world.⁷¹

On another show, the inmate announcer introduced Hoosier by his hair color and freckles. But in addition to these now-established tropes of whiteness, the announcer marked Hoosier with some of the same signs of blackness that other announcers used to describe Ace Johnson, the Negro Choir, and many other black performers. Hoosier had “a wide smile and a happy disposition—and plenty of ability on the harmonica. Show ‘em, Ocie!” These tropes of blackness: the performance of happiness in incarceration and musical skill – marked Hoosier as if he were black, and content in his unfreedom. This indicated Hoosier’s indeterminacy as a racial figure, of his not being of quite the same quality of whiteness as the inmate announcer.⁷² It was in cases such as Hoosier’s, and especially due to his performance of “black” music on the harmonica, where the

⁷¹ On racial transgression as well as the further delineation of racial difference via sexuality in urban vice districts, see Kevin J. Mumford, *Interzones: Black/White Sex Districts in Chicago and New York in the Early Twentieth Century* (New York: Columbia University Press, 1997).

⁷² *Thirty Minutes*, Program 15, June 29, 1938. The conflation of racialization and “happiness” was striking. Consider the following, from Program 5, April 20, 1938: “And here are those four grinning Darkies who make up the prison’s Negro Quartette...Let’s listen to them sing ‘Precious Lord!’” Indeed, this racialization and the trope of the grin/smile even extended to the seemingly secure white social position of the Vice-President of the Prison Board: “Next, we are pleased to introduce to you another old time Texan...*a genial, robust Irishman whose characteristics include a flashing smile and all the ready wit and wisdom of his race*...Col. W. R. Dulaney, of Houston, Texas.” (Program 5, April 20, 1938, emphasis added). It is interesting that as an Irishman, he’d be introduced with a reference to his “smile,” akin to the “grinning” of black participants on the show, in racialized characteristics like those of Amos ‘n’ Andy and other minstrel show acts. Interestingly, while this invocation of the Irish as a separate race falls outside Matthew Frye Jacobson’s overarching periodization in the consolidation of ethnic whiteness-as-Caucasian, it also suggests a divisiveness among elite whites, in addition to the racialized poor whites that Neil Foley explores. Perhaps this was an effort by a social subordinate to ridicule and racially mark

firm boundaries of racial identity imposed by the prison revealed a looser foundation. The constant re-signification of his “red hair” and his spatial location on the white Harlem State Farm (not even remotely a reference to New York’s Harlem), reasserted his whiteness of a different sort. The need to do so spoke to the very indeterminacy of his racial performance.

Humberto Boone’s presence as “our Mexican tenor,” but also as the leader of the “Cuban Rumba band” further complicates matters. Born and raised in Del Rio, Texas, Boone himself had been a professional singer prior to his arrest, and performed on the radio in both Del Rio and across the border in Villa Acuña, Mexico. By playing rumbas, Boone participated in the limited space that the market allowed for Mexican musicians – and this meant that he was to play “Latin music.” In the late 1930s and early 1940s, the limited market for Mexican music guided many musicians into the growing market for “latin” boleros and rumbas, which were increasingly popular with a “general” audience.⁷³

Humberto Boone's band played the popular and marketable Latin sounds of rumba, associated more so with “the islands” and “Cuba” than with Mexico or *ranchero*, or *corrido*, or even *corrido-canciones* styles. The representation of Boone as Latin rather than Mexican, showed some of the interrelation of these identities, but also distanced him from the more racially degraded status of “indio” (or Indian) within Mexicanness. Like the difference between gospel and jazz among black prisoners, the

his “superior.” See Jacobson, *Whiteness of a Different Color: European Immigration and the Alchemy of Race* (Cambridge, MA: Harvard University Press, 1998), esp. 39—138; Foley, *The White Scourge*.

stylistic differences between Boone's rumba and the Mexican Stringsters' ranchero articulated a range in the infrapolitics of identification. While ranchero valorized rural, working class ethnic Mexican lifestyles, rumba was far more urban, cosmopolitan, and socially-prestigious. As a result, Boone was at different times identified as "our Mexican tenor," but also as "Our golden voiced Latin," with all of the racial meanings variously associated with and articulated by class performances.⁷⁴ Boone's elite-oriented, marketable music may have effectively "lightened" his aural complexion, locating him as a Latin musician, or perhaps a Mexican American, rather than consistently as a more racially-degraded Mexican.⁷⁵ Thus, while Ocie Hoosier's racial indeterminacy performed the subordinated blackness of Dallas's Deep Elm, Boone's was one of upward mobility toward the centers of racial and economic prestige.

Audience Correspondence: The Constitution of a Mass Audience

Time and again listeners were told "This is YOUR show," as announcers attempted to involve listeners in the program and, by implication, make them complicit in its production. Through the "educational and entertaining" elements of *Thirty Minutes Behind the Walls*, officials aimed to craft a mass public and a mass subject amenable to state disciplinary messages, and used numerous techniques to generate this

⁷³ Peña, *Mexican American Orquesta*, 132. Importantly, rumba itself emerged from the blending of African and Hispanic musical styles in Cuba and the Caribbean.

⁷⁴ *Thirty Minutes*, Program 64, June 7, 1939; Program 71, July 26, 1939; Program 116, June 5, 1940; see also Peña, *Mexican American Orquesta*, esp. 132.

⁷⁵ In this, it seems more than a coincidence when Peña explains that urban, middle class, swing-influenced orquesta music was called *jitón* (derived from "hightone"), and opposed to rural, working class ranchero music. Peña, *Mexican American Orquesta*, 2, 122-3. Such a distinction articulated racialized, as well as class components, within Mexican American music.

positive publicity and secure consent for the prison system.⁷⁶ Though it appears that they were largely successful, the class-based appeal of prisoners' music may have generated much less predictable effects than broadcasters wanted, as a counterpublic was sutured to the state-sanctioned disciplinary message.

State officials made full use of emergent audience surveillance technologies to disseminate their ideological message.⁷⁷ California prison authorities breathlessly reported that the "listening audience in the eight Western States has been estimated at well over eight million during each broadcast" of *San Quentin on the Air*.⁷⁸ In Texas, WBAP officials estimated that more than five million listeners regularly tuned in.⁷⁹ But more significant than quantitative Hooper ratings were the qualitative comments that listeners made in their letters.

Announcers pleaded with listeners to send letters to the *Thirty Minutes* staff. As one announcer put it: "We're anxious to know whether you like us or not; whether our old friends are sticking with us; and, whether new ones are being added to our audience."⁸⁰ The letters requested by prison officials served multiple purposes,

⁷⁶ On differing publics and an understanding Habermas' notion of the public sphere as a contested one, see Nancy Frasier, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," in Bruce Robbins, ed., *The Phantom Public Sphere* (Minneapolis and London: University of Minnesota Press, 1993), 1—32, Warner, "The Mass Media and The Mass Subject," and Warner, "Publics and Counterpublics."

⁷⁷ Douglas, *Listening In*, 124—160.

⁷⁸ According to "Hooper ratings from KFRC... 'San Quentin on the Air' stands at 8.8; competitive ratings on major stations for the 8:00 to 8:30 period Mondays are shown to be KGO - 6.6; KQW - 5.4; KPO - 10.01 (Fred Waring's Victory Hour)." This, and the quote above, are from the San Quentin, Folsom, and Chino Minutes Summary Books, 1943—1945, May 29, 1943, CSA F3717:1039, p14. The parallels with capitalist marketing researchers are quite clear, though perhaps lagged behind the "most sophisticated research techniques of the day." See Douglas, *Listening In*, esp. 158-159.

⁷⁹ Charlotte A. Teagle, *History of Welfare Activities of the Texas Prison Board, 1927—1940*, TSLAC, Department of Corrections Records, Box 1998/038-124, 171.

⁸⁰ *Thirty Minutes*, Program 151, February 12, 1941.

certainly, but high among them was that prison officials could learn more about their listeners, and how to tailor the show to appeal to the largest number of consumers of their program's disciplinary ideology.

Sending and reading fan mail was a crucial part of radio programming in the depression years. According to Jason Loviglio, listener participation in 1930s radio enlivened "national rituals that helped to constitute a revitalized sense of national identity." Shows featuring "'average Americans' provided a series of compelling performances of who 'the American people' were, what they sounded like, and what they believed in."⁸¹ Not only were audience response letters important to performers and broadcasters for marketing their shows, but they also conveyed a sense of self and symbolic participation in the national radio imaginary to listeners. *Thirty Minutes Behind the Walls* performed both the American listening public – through writing in – but also the symbolic exclusion and discipline of prisoners. However, this, too, was superseded by the white supremacist narrative of white prisoners' redemption into the imagined community of industrial citizenship. While the spoken segments on *Thirty Minutes* produced the redemptive "average American" as a white male, its music could convey broader messages. *Thirty Minutes* did broadcast America, but an America fallen on hard times. The redemptive stories surely had wide appeal for those, regardless of race, who could use some redeeming themselves. And the music was just plain, good music.

⁸¹ Loviglio, "Vox Pop," 90, 91.

Regrettably, few letters sent to *Thirty Minutes* remain, and the ones that do were those selected by prison staff to be read on the air, clearly chosen for their disciplinary appeal. It is impossible to know whether most people wrote in out of respect for the state's new forms of punishment, or whether they wrote in for the sheer entertainment of hearing people they could identify with play good music. The reasons were surely as varied as the listeners, and likely combined elements of all of these. However, despite – even because of – their selection by the broadcast staff, we can know something about the listeners of the show as well as the listeners that the *Thirty Minutes*' planners hoped to create – since the letters read were, by definition, exemplary.

Letters read on the air came from an astoundingly large area, and prison officials celebrated the very distance that their broadcast traveled. One listener wrote from Pearl Harbor, Hawaii: "I especially liked the Colored boys song 'Dixie Boy.' I would very much like for you to notify the cast that I have been listening to their program. I am a sailor in the United States Navy and my home is in Arkansas. Hearing your program makes it seem very close to home and I do sincerely enjoy them. Sincerely yours, J. O. Rehtin Pharmacist Mate Third Class, U. S. Naval Dispensary, Pearl Harbor, T.H."⁸² Mrs. H. W. Grigry, a listener from "Cucuta, Columbia," celebrated that she had finally been able to tune in to *Thirty Minutes* in South America, after six months of trying.⁸³ Perhaps more impressive was the letter from Manitoba, Canada, explaining that two families traveled forty-five miles *by dogsled* each Wednesday to hear the show on a

⁸² *Thirty Minutes*, Program 85, November 1, 1939;

⁸³ *Thirty Minutes*, Program 107, April 3, 1940;

friend's radio set.⁸⁴ This sort of community gathering (and community formation) around a radio wasn't uncommon, it seems, and H. J. Jones, a listener in Denton, Texas, said that because they had the only radio in their neighborhood, people came from all over on Wednesday nights to listen to the show.⁸⁵

Other listeners testified to the effectiveness of *Thirty Minutes* as a disciplinary teaching tool, and these were high on the list of letters selected to be read. Broadcasters selected numerous letters from people in authoritative positions who appreciated the lessons of the show. A County Attorney in Arnett, Oklahoma congratulated Texas Prison Officials for their apparent progressivism:

We...enjoy to the fullest, your weekly programs and are sympathizers with...the aim of your institution, that is, the rehabilitation of persons committed there. Almost a century ago, Enrico Ferri, an Italian criminologist said "The time will come when we will correct wrongdoers with no thought of punishing them, whereas, we now punish them with no thought of correction." To us it appears that the spirit pervading your institution is to that effect...Very truly yours, O. E. Enfield.⁸⁶

School teachers and Church leaders also played the show for their own wards. Emma Flood, a teacher from Broken, Oklahoma, said that she used *Thirty Minutes* as an example to her students, "to impress them never to make mistakes in life that will land them behind the walls."⁸⁷

While some letters clearly appealed to disciplinary intents of broadcasters, many expressed their love of the show's music, and the connection listeners felt to the prisoners they heard. Few letters were read, but a great many were mentioned, that

⁸⁴ *Thirty Minutes*, Program 103, March 6, 1940.

⁸⁵ *Thirty Minutes*, Program 74 August 16, 1939.

⁸⁶ *Thirty Minutes*, Program 81, October 11, 1939.

requested specific songs be played, or that certain performers get more airtime, as when WBAP was besieged with hundreds of requests for E. S. Shumake's Jivers to play "Original Blues," or when numerous listeners requested more spirituals. These requests were for aesthetically pleasing and pleasurable performances. These letters had little to do with the disciplinary intent of the show, or with the legitimization of state authority (which may be why they were referred to, but rarely read aloud). San Quentin Warden Clinton Duffy was well aware that listeners tuned in to *San Quentin on the Air* for the music, not the pedagogy: "We have to entertain them to get them...to listen to that much. That is why we have the music and the singing in the broadcast..."⁸⁸

Listeners were, I suspect, drawn more towards writing on the behalf of prisoners than they were trying to justify and legitimize prison officials. They were certainly swayed by the down-home appeal of prisoners like guitarist and print-shop worker V. J. "Lucky" Rousseau. When asked about his ambitions on release, he told the WBAP interviewer, "I want to be a musician...a **good** musician." The announcer complimented, "I'd say you're a good one now, Lucky." Rousseau responded "Aw—Thanks! But I want to be really good...I don't mean highbrow—I just want to play music that ordinary folks understand and love, but I want to be so good at it they'll be happier for having heard me play."⁸⁹ Rousseau had working-class ambitions, and few aspirations of becoming a "highbrow" musician, in his own words. His was the sort of plain folk

⁸⁷ *Thirty Minutes*, Program 58, April 11, 1939.

⁸⁸ Clinton T. Duffy testimony, Volume VI: Witnesses Before the Governor's Committee on Investigation of San Quentin Prison, 1285. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:961.

⁸⁹ *Thirty Minutes*, Program 142, December 11, 1940. Emphasis in original.

Americanism that James N. Gregory describes.⁹⁰ Rousseau had little interest in catering to rich interests, and espoused a white working class ideal to make other working class people happier through his music.

On a show shortly before the three-year anniversary, inmates and announcers made appeals for the audience to send letters in support of an hour-long anniversary broadcast. As inmates implored listeners to sit down and write a letter, they indicated that listeners' letters would bring them untold joy in an otherwise bleak world. As baritone Paul Richards said, "I just wish you could take a peek into the prison and see how anxious the Boys and Girls in White really are, and how they're hoping that you'll come through for them..." Richards explained that even though they had received a number of such letters already, "the Boys and Girls in White still have a long way to go before enough names will be ready to show WBAP and Prison Officials that YOU want to listen to a full hour's program..."⁹¹

By requesting letters in support of an hour-long anniversary broadcast, listeners were appealed to as prisoners' advocates, rather than as boosters of the prison that held them. This framing performed significant ideological work. It was as if the radio show was the prisoners' own, rather than that of the prison system and of broadcast capital. Prisoners and listeners were thus aligned for this moment (and this could have been an unstable alliance, especially in case of broad prison reform movements and challenges to the penal status quo.) But so too was the true nature of the show's disciplinary origins mystified. The idea that WBAP and prison officials would need to be cajoled to

⁹⁰ Gregory, *American Exodus*, esp. 150.

broadcast a longer anniversary show was disingenuous at best. By taking this track, prison officials and the radio staff attempted to channel popular concern for prisoners – whom listeners saw as people not unlike themselves (and this was the very significant humanitarian potential of the show) – and parlay it into a marketing scheme for WBAP and the prison itself. Nevertheless, the symbolic alliance of “the public” and “the prisoners” was quite real. And its positioning against WBAP and the prison officials could have become an unstable one, especially when muckraking prison reformers like C.V. Compton increasingly and publicly protested the brutality still present in the Texas prison system.⁹²

Further, on this occasion, each listener was to sign their card, and have their friends sign cards, too. Each signature was to count as “one vote” for the hour long show. It was perhaps ironic that the prison broadcast staff used a model of participatory democracy to substantiate a disciplinary system that, in its very core, was one that practiced unfreedom and controlled the lives and bodies of those deemed the juridical “opposite” of citizens, and from whom the rights of citizenship had been withdrawn. It is further worth considering that a substantial proportion of the Texas public could not vote in public elections – indeed, black Texans and many ethnic Mexicans would be denied the ballot for many years. And the prison system would play an increasingly important role in maintaining that racial and political differentiation in the years to come.

⁹¹ *Thirty Minutes*, Program 152, February 19, 1941.

However, in the context of *Thirty Minutes Behind the Walls*, the prison system itself was marketed to a consuming public via commercial radio as state and capitalist technologies interpenetrated. And as consumers participating in a capitalist marketplace, everyone who was a potential market share had a voice – a “vote” – in a pastiche of state penalty, exclusion, entertainment, and consumer choice.

One listener’s letter poignantly demonstrated the contradictions in this very system. Inmate announcer Billy Clark read “A colored listener wrote us to inquire if the Negro vote counts...and she cast her vote for our birthday party...That vote counts a lot with us, and by way of saying ‘Thank You’...a talented 19-year old Negro singer makes his debut on the program tonight, dedicating his song to our colored listeners... Maurice Geary of Newark, New Jersey, sings: ‘Old Folks At Home.’”⁹³ Unlike other letters read on the show, and especially those that championed the prison system itself, this black woman’s name was never spoken, nor her hometown named. And as a reward for the vote she could not exercise as a citizen, the prison and one of its many black inmates sang a blackface minstrel song from the repertoire of Steven Foster.

But other listeners were less concerned if their voices would be represented. Mr. E. Sherman Prout of Bridgeport, Illinois, channeled his love for the show into national pride:

There is no other country in the world that would offer [prisoners] such leniency. Their privileges [are] far greater than those of many ‘free’ citizens of the world’s dictatorships. I’m proud to point to your weekly broadcast as

⁹² See C. V. Compton, *Flood Lights Behind Grey Walls: An Expose of Activities* (np, 1942). Surely this alliance played a role in the Prison Board’s decision to finally outlaw official whipping in the prison system in 1942.

⁹³ *Thirty Minutes*, Program 153, February 26, 1941.

another triumph of American democracy, and want to take this opportunity to thank and congratulate you.⁹⁴

Here was the response that prison officials surely had been waiting for. As Texas prisoners were paraded along the airwaves in a line of racial hierarchy and subordination, black and ethnic Mexican prisoners were included as musical entertainment, while whites were the stars of the show and its redemptive narrative. In Prout's glowing assessment, the Texas Prison System proved that the United States was the freest country on earth. The Texas prisoners who tilled its fields, picked its cotton, and suffered under the lash that was still a very legal sanction, likely had a far more jaded vision of American democracy once the music stopped.

Conclusion

Representations of race on prison radio served to set the contours of inclusion and exclusion in the national imaginary. While the broadest theme of prison radio was to present the penal state as a benevolent, modern, and paternalist entity, it also presented the humanist vision of prisoners as potentially redeemable members of society. From the structure of interviews, the format of the program, and the normative, middle class white voice of the announcer who framed the various musical numbers, listeners learned, however, that it was white prisoners who were redeemable, worthy of education and vocational training. It was predominantly white prisoners who were interviewed and given voice in the structure of the program. Black and Mexican prisoners had far less voice, though their musical presence contributed to a

⁹⁴ *Thirty Minutes*, Program 96, January 17, 1940. 347

counterpublic that articulated with, but was never reducible to, the state sponsored public sphere. They could sing, but they could not speak.⁹⁵

Yet *Thirty Minutes Behind the Walls* did perform simultaneous inclusions and exclusions of prisoners in the body politic, and in this, the popular culture of punishment offered a terrain that white prisoners could make use of for social redemption. It also offered a narrative of social exclusion and redemption in which listeners constituted by the show (but who brought their own interpretations and contextual subject positions to the active process of listening), in shaping their own understandings of crime, punishment, racial difference, and the duties and obligations of citizenship. This terrain remained largely hostile to those constituted as racial others – as black and Mexican, for whom the narratives were harder to make use of, due to a renewed subordinate position in political economies and the construction of national belonging and otherness.

Thirty Minutes Behind the Walls' appeal to diverse audiences was unmistakable.

Few listener responses remain, but it was undoubtedly the working-class nature of the

⁹⁵ I intend a deep ambivalence in this statement. Speech, understood as the ability to participate in social forms and protests recognizable to the state, was denied to racialized prisoners. Music, however, is a far less stable medium for communication, whose protests, alternative imaginations and reckonings of life (more so in worksongs than in these broadcasts) remained silent to state officials, narratives, and transcriptions (and thus, also to received understandings of historical source material). Officials recognized some of this appeal when they increasingly played music to ensure listenership, but there remained, I contend, aspects of musical performance that superseded disciplinary intentions. Michael Warner recently suggested that counterpublic discourses can generate their own communities, but that these have an ambivalent relationship to and effect on governments. "Publics more overtly oriented in their self-understandings to the poetic-expressive dimensions of language – including artistic publics and many counterpublics – lack the power to transpose themselves to the level of the generality of the state." It is frequently the inability of the communities formed by counterpublic discourse to effect social change at the level of law or the state (for whatever reason) that leads critics to see counterpublics as non-political. Warner, "Publics and Counterpublics," 83–84.

show that made it so popular.⁹⁶ And the general mood of the Depression was one in which many listeners knew that they, too, could just as easily fall on hard times and wind up behind bars. Many undoubtedly had loved ones at Huntsville. If they did not, it was a possibility they could easily imagine.⁹⁷ Much popular culture of the 1930s and into the war years celebrated working class values, in the explicitly politicized popular front described by Michael Denning, as well as in the sublimated, multi-racial class appeals of blues, gospel, western swing, hillbilly, jazz, and canción-corridos.⁹⁸ Working class listeners could hear the music of people just like themselves, across an age and ethno-racial spectrum. This plain-folks Americanism wasn't strictly white or black or Mexican, but evoked a multiracial, working-class hybridity at the same time that it marginalized racialized Others as mere purveyors of musical talent. And though it was intended as a broadcast of disciplinary appeal, and to legitimate a penal system guaranteeing racial hierarchy and inherently conflictual class relations, this was by no means the totality of the show's significance: it also gave some prisoners modest voice, and celebrity status. It broadcast messages about expanding parole, which prisoners certainly supported. It made prisoners human (whites more than African Americans and ethnic Mexicans), and sonically returned them to the communities from which they had come. The networks of power in which prisoners performed were as

⁹⁶ On the especially rural appeal of *Thirty Minutes*, consider Program 28, September 28, 1938. Danny Leach did renditions of "Hogs Feeding at Breakfast," "Two Hogs Fighting," and a "Hog Caught Under Gate."

⁹⁷ *Thirty Minutes*, Program 49, February 22, 1939.

⁹⁸ See Peña, Malone, and Lipsitz.

multidimensional as the airwaves themselves, and in which prisoners contested and struggled for representation and presence and to shape their own lives.

Thirty Minutes Behind the Walls was decidedly and proudly working class, and despite the forms of racial difference that the prison consistently imposed and that prisoners continued to claim, the Texas prison forcibly brought together people from across the country – indeed, from many countries – and put them together into constrained spaces. As such, it produced a site of musical hybridity in the face of racial differentiation. And thanks to listener demand, *Thirty Minutes Behind the Walls* broadcast multiracial music from beginning to end. It is impossible to conceive of this show as anything other than one that emerged from deep in the US-Mexico borderlands, where country music met hot jazz, gospel met Mexican string music, and Cuban Rumbas intermingled with Negro Spirituals.⁹⁹

In these broadcasts, the racial indeterminacy and exchange of the borderlands – prompted by incarceration of the multiracial poor, and furthered by audience demand for their favorite music and the limited number of musicians in the broadcasts – met with the iron bars of the prison system, and of the efforts of the state, and the complex, overdetermined forms of racial power, to maintain segregation and racial difference. The penal project of class control, and racial project of maintaining clear distinction

⁹⁹ Program 127, August 28, 1940, is perhaps exemplary in this regard: This broadcast featured the Mexican String Band playing “Amor De Toraro,” followed by Milton Tom Harris and the Jivers with “Blues in the Dark.” Next, a String trio played “Steel Guitar Rag,” Ruby Morace and the Rhythmic Stringsters did “Right or Wrong”; the Print Shop Quartette sang the religious “Waiting the Boatman”; the Mexican String Band played their own arrangement of “Opos de Concha” (possibly a misprint for “Ojos”); Mozelle McDaniel sang “Way out West in Texas”; the Negro Quartette sang “Pick a Bale of Cotton.” The Mexican String Band followed with “Rancherito,” Ace Johnson soloed on “Rabbit Get Up

between raced bodies, subjects, and voices, met its contradiction through the very entertainment it produced, broadcasting a show in which borders (public and private, of deviant and the redeemable, of race, and of gender) were both crossed and policed simultaneously.

In the Hollow,” Robert Johnson played “Fools Rush In,” and the Rhythmic Stringsters closed the show with “Ain’t She Sweet.”

Chapter 6

Athletic Discipline and Prison Celebrations in the Popular Culture of Punishment

Every man on the yard was primed for the game. Milling around in twos and threes with improvised cushions and megaphones. The day was beautiful until just a few minutes before the time scheduled for the game. “Where did it come from,” some one said. Eyes looked to the threatening clouds. Bang, she hit. Smiles faded, chins dropped. But it was only a full grown shower. Hannah soon came out with her good eye and beamed upon the diamond. Wasn’t it a grand and glorious feeling? Down in the orchestra pit sat Leo Cody concentrating upon nothing but the game. Like a stone image sat Cody, looking neither to right or left.

This description, drawn from the June, 1933 *Echo*, Huntsville Prison’s inmate newspaper, speaks to the pleasure that inmates derived from sports in prison, the disappointment that would come if a baseball game were to be cancelled, either because of bad weather or as a loss of privileges. Prisoners took time after their daily labor to practice, and inmate spectators badly wanted to see their team play, to represent them as athletes and as men, rather than as convicts. From existing sources, prisoners, like their counterparts on the outside in the Depression years, increasingly enjoyed playing sports, as well as listening to or watching games, in the growing consumer and leisure culture of the United States.

Prison wardens, too, were firm believers in the use of sports behind bars. San Quentin Warden Court Smith cut to the heart of the matter when, in 1936, he told

inmate reporters that a “healthy body” was the “foundation for good citizenship.”¹ Warden Holohan, whom Smith replaced in 1936, told the San Quentin *Bulletin* that he “believed that no better influence could be brought to bear upon rehabilitation of the men than participation in contests of fair play and skill.” *The Bulletin* further reported that Holohan “is a firm believer in physical recreation as a stimulant toward a healthy mind – and realizes that at no time is this so important as during incarceration.”²

There should be little surprise that prison officials felt this way. In charge of warehouses of mostly young and energetic men, prison officials constantly sought activities to expend the energy of their wards. Beginning in the Progressive Era in the northeast, and spreading through the rest of the country, athletics became a growing field of penal discipline, when inmate labor was increasingly circumscribed by organized worker protest and an interventionist state that sought to protect the wages of their white male industrial constituents.

In this chapter I examine the social and cultural context of prison athletics, as a curious feature of penology upon which both prisoners and their keepers so heartily agreed. I argue that athletics, as another component of the popular culture of punishment, nurtured a hegemonic formation based on the key features of labor discipline, sublimated aggression, gendered notions of sportsmanship, racial hierarchy, and national belonging. Unlike the previous chapter, which centered on the publication of punishment through radio broadcasting, this chapter examines the internal

¹ "Court Smith is New San Quentin Warden," no author, *The Bulletin*, March/April 1936, 22, CASL Government Publications.

² "All San Quentin Thrills as Field Meet Nears," no author, July/Aug 1935 *Bulletin*, 28. CASL Government Publications.

disciplinary function of popular culture in sports, as well as the broader penal messages intended as a lesson for those outside of the prison walls.³

My analysis of organized sport in American prisons in the 1930s and 40s foregrounds questions of structure and agency, and domination and resistance, and examines how authorities attempted to control prisoners through athletic programs while prisoners, at the same time, claimed for themselves a sense of working-class self-control and dignity, structured by racial and gendered identities. Prison athletics produced an investment in “bodily” activity and capital that was relatively unalienated, when compared to prison labor. I examine the interaction between “self-control” and “social control,” in a field of inquiry in which poststructuralist theories of subject formation loom so large.⁴ But in contrast to Foucault’s model of subject formation in prison as emanating from the panoptic center, below, I adopt a more Gramscian model. While prisoners did behave according to state norms and desires through sporting practice (by “following the rules,” “staying in the lines,” and “exhibiting respect for authority”), prisoners also gained access to behaviors and allegiances that drew as much from civil society and mass culture as they did from the state, embodying valorized notions of class-based and raced identities, masculinity and femininity, and American nationalism, of self-mastery in the face of fear and pain. In drawing on the

³ I do not address here the development and expansion of prison educational programs, though these were components of what many scholars have identified as “progressive penology.” The popular culture of punishment was, too, part of progressive movements in punishment, but was qualitatively different from education because educational programs were not themselves broadcast to outside the walls as a dramaturgy of punishment.

⁴ Judith Butler and Michel Foucault are two of the most insightful theorists who probe the overlays between self- and social control. Butler, *The Psychic Life of Power: Theories of Subjection* (Stanford: Stanford University Press, 1997). Below, I draw critically Butler’s and Foucault’s insights to aid in explaining the complex ambivalence that sporting self-control offered to prisoners in the 1930s and 40s.

phenomenological experience of sport for prisoners, as well as the disciplinary intent of prison managers, I offer a critique of a Foucauldian model of subjectivity emanating from a panoptic center (as articulated in *Discipline and Punish*) with one that is multivalent, pushed and pulled in multiple directions and along different axes of power. Self-discipline through sports allowed an avenue through which prisoners could access alternative discourses – of masculinity, individual style, skill, and community, among others – that came through civil society and mass culture rather than from the carceral state. While I critique Foucault’s model of subject formation, I also critique James Scott’s description of resistance as inadequate for understanding how prison athletics fit within the conflicted cultures of punishment.

The chapter examines many of the sporting events and celebrations that occurred throughout the year in Texas and California State prisons. From “America’s Game” to Texas Rodeos, from women’s athletic programs at San Quentin and dance nights at Texas’s Goree Farm, and from Juneteenth and the Fourth of July in Texas to California’s Little Olympics, prisoners and their keepers offered contesting interpretations of the meaning of sports behind bars. While keepers intended instructive messages, prisoners claimed valued senses of themselves and their relationships with their audiences, which authorities could not fully control.

* * *

The Historical Foundations of Prison Sports

Organized sports in prisons were not the result of studied forms of new discipline by thoughtful and elite prison planners. Rather, inmates in 1896 at New York's Elmira penitentiary were the first to organize sporting events when, on special occasions, they had "freedom of the yard" to do what they wanted. And they organized team sports. However, prison authorities were quick to see the disciplinary appeal of sports, and appropriated athletics from inmates as a new penological practice. Zebulon Brockway, the noted New York prison reformer, developed institutionalized prison sports in order "to foster self-control and team spirit...." Further, notes Blake McKelvey, "[t]his feature was to prove one of the most popular of the reformatory's contributions to prison discipline in the next century, although only a few institutions were able to derive other than entertainment value from it."⁵ However, Alexander Pisciotta disagrees, positing that officials at Elmira first opened a gymnasium in 1890, thus seizing inmates' bodies as locations of training in sports early on, and suggests that baseball, basketball, track and field and football developed at Elmira in the late 1880s.⁶

Regardless of the originary moment of prison athletics, officials were especially glad for the innovation of penal sports, and understood athletics as a way to fill inmates'

⁵ Blake McKelvey, *American Prisons: A History of Good Intentions* (Montclair, NJ: Patterson Smith, 1977), 137.

⁶ Unlike McKelvey, Pisciotta is ambiguous in his language as to whether or not these were innovations made by prisoners or by officials. Nevertheless, Pisciotta positions athletics as a new form of social control rather than as an element of contest and hegemony. Drawing on state-authored sources, this is a reasonable conclusion. Alexander W. Pisciotta, *Benevolent Repression: Social Control and the American Reformatory-Prison Movement* (New York: New York University Press, 1994), 24-5. Nevertheless, I find this to be a very significant question in gauging the meaning and texture of athletics in prisoners' lives, and thus try to find prisoners' voices for their views and for an alternative and more thorough interpretation the role of sport in penal hegemony and the phenomenology of incarceration.

time with activities other than productive labor, when organized workers protested competition with inmate labor. According to McKelvey,

Organized sport was direct in line to make life in prison more tolerable, and its welcome was doubly enthusiastic because the lax industrial activity was failing to occupy the full time and energy of the prisoners. The wardens, through cautious experiments with their first graders, had discovered their ability to control men in masses.... [A]thletics opened a new horizon in correctional therapy.

He continues,

Grandstands were erected, indicating that the recreational possibilities of athletics were to be sacrificed to the entertainment feature of league games; the wide introduction of the movie a few years later, and of the radio later still, further emphasized the transition from the recreational program of the reformatory, with its educational motivation, to the amusement program of later prisons, seeking to keep their inmates contented.⁷

McKelvey lamented a decline from what he saw as the “noble” rehabilitative potential of sports to that of “mere entertainment,” but he misinterpreted the importance of “entertainment” as a technology of social control. Playing sports, watching others play and reading about them, watching movies, and consuming mass culture were new disciplinary forms developed under the nascent welfare state and signaled the interpenetration of mass culture and the contemporary state. These disciplinary reforms were particularly well-suited to the growing emphasis on mass culture, sports and media in and out of prison in the New Deal years. But rather than being seen as replacements for labor as a disciplinary mechanism, entertainment and sports remained a supplement to labor as a rehabilitative/punitive method. In the 1930s, then, and in the face of growing white, male, industrial workers’ protest over the uses of prison labor, sports

⁷ McKelvey, *American Prisons*, 261-2.

grew in importance as a disciplinary technology, as prison managers looked for ways – other than simply setting them to work – to occupy their wards. Sports and recreation filled this need, part of the transition in American culture from emphasis on forms of production to forms of consumption, and the development of what Warren Susman and others have identified as the twentieth century American culture of leisure.⁸

Prison baseball and other sports were well-suited for imposing class-based hegemony insofar as sports offered a pleasurable recreation for/of labor in the working classes. Athletic training made for healthy prisoners, who were intended to understand the benefit of adherence to the rules and respect for authority (in the figure of the umpire). In places like California’s San Quentin State Prison, it should come as little surprise that the prison baseball league was organized with the Captain of the Guard as the league “Commissioner.”⁹

Furthermore, athletics helped to structure prisoners’ temporality according to a capitalist model of labor and leisure. Prisoners were to labor in the daylight hours, and were only permitted to play in the evening, weekends, and on state holidays, once work was done. Thus the concerted definitions of *work* versus *play* activities and their times were made very real, distinguishing productive “labor” (capitalist modeled/ wage) from

⁸ Rebecca McLennan’s “Punishment’s ‘Square Deal’: Prisoners and their Keepers in 1920s New York.” *Journal of Urban History*, Vol. 29 No. 5, (July 2003): 597—619, also describe the innovation of structured leisure in prison regimes. As with my own findings throughout the dissertation, McLennan stresses that structured leisure in prison developed from prisoners’ protests, labor union activity, and political movements, rather than simply from the prison officialdom. However, McLennan’s specific goal in “Punishment’s ‘Square Deal’” is to elucidate the multiple sources behind changes in penal strategies, while my own is to examine how mass culture was experienced, what those experiences meant for prisoners, and what they indicated about the broader nature of social change and conflict in the United States.

⁹ “So-Long, Dominoes, Hello Baseball!” *The Bulletin*, February 1933, 22. CASL Government Publications.

unproductive “play” (pleasurable, and outside definitions of wage labor). Writing in the *San Quentin Bulletin*, inmate Hal Eble glowingly described the disciplinary model, combining aspects of capitalist labor and capitalist leisure. “Work has always been the panacea for men's ills and nowhere is this so strikingly evident as in San Quentin. Relaxation follows,” and, of the forms of relaxation available, he continued, “Baseball is unqualifiedly the most popular.”¹⁰ The pleasures of sport and recreation, as well as the visual consumption of movies or aural consumption of radio programming – also part of the popular culture of punishment – operated as a way of turning prisoners into productive workers, as well as consuming citizens-to-be. It was no mere coincidence that sociologist Donald Clemmer’s research in early the 1930s found structured leisure activities to be of the utmost importance. Indeed, one of the only recommendations of his study was to expand “the socialized instruction in the use of leisure time,” which he felt to be “more important than formal education and trade training or other customary apparatus of reform.”¹¹

Clearly, the structure of penal leisure outlined above tracks closely with the Marxian analysis of leisure in the capitalist world – where “play” served as a mode of reproducing healthy laborers, and workers successfully fought for their own time away from work, encapsulated in the title of Roy Rosenzweig’s history *Eight Hours for What We Will*.¹² But prison leisure was this and more. Leisure at sport also trained prisoners

¹⁰ Hal Eble, *The Bulletin*, July 10 1933.

¹¹ Donald Clemmer, *The Prison Community*, (New York: Holt, Reinhart and Winston, 1968 printing of the 1958 Edition, originally published 1940), 316.

¹² Roy Rosenzweig, *Eight Hours for What We Will: Workers and Leisure in an Industrial City, 1870-1920* (New York: Cambridge University Press, 1983).

in national identities, and instructed prisoners' bodies in sportsmanship, in masculine performance, and in public displays of athletic skill.

In addition to the material training of bodies and discursive training of behavior, prison sports also operated as a visual spectacle for non-prisoners. The prison's publication of these leisure activities, when an audience was invited to see the Texas Prison Rodeo or the San Quentin All-Stars baseball team play against semi-pro teams, instructed non-prison viewers that their state and its prison was good and humane. At the same time, these sporting events provided citizens with an inexpensive leisure activity of their own, watching prisoners perform as athletes for their entertainment. Before their very eyes, the prison itself became naturalized as the singular and best form of criminal justice control. Frantz Fanon's insight that the violent state is an exhibitionist, is not tarnished by the different exhibitionism of the liberal state.¹³

As in all other elements of the popular culture of punishment, conflict permeated every social interaction as social forces and actors met and reformed each other in dialogical relationships. Athletics rarely provided moments of overt resistance, but rather fostered more finely grained experiences of countervailing and multidirectional forces. It is important to take ideas of pleasure and experience seriously, because they offer alternative, if not contradictory interpretations of prison sports and the lives that

¹³ Frantz Fanon, *The Wretched of the Earth*, trans. Constance Farrington (New York: Grove Press, 1963). The notion of state spectacle and intended audience comes squarely into play here. While the liberal aspects of spectacle and entertainment were intended for a broad public audience, the brutal displays of violence in Texas prisons especially were hidden from the public but were nevertheless spectacular for prison inmates themselves. In this juxtaposition we can interpret how different audiences were understood and "instructed" in different ways by state practices. I discuss violent punishment elsewhere in the dissertation.

people claimed in a deeply repressive location. One is tempted to write about the disciplinary forms emergent in the popular culture of punishment from a purely top-down perspective, valorizing prison managers' perspectives and the sources they left, if from a critical perspective. But prison inmates' experiences and bodily pleasures in athletics exceeded, in complex ways, the networks of prison control.¹⁴

America's Game: Baseball Behind Bars

According to a journalist writing for the *Atlanta Journal* in 1919, baseball "is the greatest single force working for Americanization. No other game...teaches the American spirit so quickly, or inculcates the idea of sportsmanship or fair play so thoroughly."¹⁵ Some sports/cultural historians have offered something of an "ethnic immigration model" for understanding the ambivalent effects of sporting practices within a Gramscian hegemonic model of social formation. S. W. Pope describes the social significance of sports in the early 20th century:

Symbolically, sport provided a dual identity for millions of ethnic Americans. However, embracing the strenuous life was not without conflict; athletics pitted immigrants and their children against middle-class Americans who enlisted sport for urban social reform. Ethnic groups responded to capitalists' and social reformers' use of sport for assimilation by maintaining European sporting traditions that often challenged WASP conventions, such as Sunday sport and alcohol-accompanied athletic contests. ...Clearly, then, sport was neither a tool

¹⁴ Judith Butler's conception of "exceeding" is very useful in this context. Butler writes: "Exceeding is not escaping, and the subject exceeds precisely that to which it is bound. In this sense, the subject cannot quell the ambivalence by which it is constituted. Painful, dynamic, and promising, this vacillation between the already-there and the yet-to-come is a crossroads that rejoins every step by which it is traversed, a re-iterated ambivalence at the heart of agency." Butler, *The Psychic Life of Power*, 17-18.

¹⁵ Hugh Fullerton, Cited by S. W. Pope, *Patriotic Games: Sporting Tradition in the American Imagination, 1876-1926* (New York: Oxford University Press, 1997), 73.

for manipulating immigrants into American conformity nor a vehicle for social harmony and self-expression.¹⁶

Pope's model is applicable to the way that sports operated in penal contexts.

Prisoners gained pride and prestige from athletics, but by no means was this inimical to the desires of prison authorities. As agents of a benevolent, paternalist, welfare state penology (structured, as always, by racial and gendered differences), prison officials adopted and appropriated multiple elements of working class American life within an expansive logic of social control. It was the very success of this hegemonic formation that allowed its acceptance and persistence in the face of continued conflict.

Prisoners, like the immigrants that Pope describes, were both symbolically and materially excluded from citizenship and full participation in American society. Athletics, and belief in the patriotic nature of baseball, especially, made it into a prime process of both social control by elites as well as contest by disempowered social actors. Surely, when prisoners played America's game, they were being retrained in an activity that celebrated, to a large extent, the imagined community that held them behind bars. Sociologist Pierre Bourdieu suggests that sports, as a bodily behavior, may offer a theory of patriotic "belief" and identity formation, as the body performs acts that the consciousness does not fully realize.¹⁷

¹⁶ S. W. Pope, "Introduction," *The New American Sport History: Recent Approaches and Perspectives*, S. W. Pope, ed. (Urbana and Chicago: University of Illinois Press, 1997), 14.

¹⁷ Pierre Bourdieu, "Programme for a sociology of sport," *In Other Words: Essays Towards a Reflexive Sociology* (Stanford: Stanford University Press, 1990), 156-167. Bourdieu's thoughts here, which mesh with a Foucauldian model of identity formation and consciousness, may have important implications for how nationalist identity, for example, comes into being through physical ritual or sporting practice. Evidence is slim on this measure; however, shortly after Pearl Harbor, many American prisoners were fervent patriots to the point of offering their lives on "suicide missions" against national enemies.

Sports geographer John Bale agrees with Bourdieu and others about the value of sports as a social disciplinary process. Sports create a realm that Bale defines as “anti-nature,” a set of socially constructed behaviors and regulations that deepen senses of self in socially sanctioned ways. Penologists aimed to curb their vision of human nature, through the opportunities to play games. Indeed, “playing” was not just for children. Sports replicated the foundational structures of modern bourgeois society: competition, muscular masculinity (for men) and subdued, racially-inflected femininity (for women), respect for authority as well as spatial boundaries.¹⁸

However, and in contrast to the notion that sports trained new and subservient belief systems, sports also gave prisoners (as well as inmate spectators) the opportunity to participate in an activity that was socially prestigious, rather than degraded. Especially when inmates played baseball against outside, semi-pro teams (and frequently competing well), they were able to access a realm of sporting discourse, and the sports world, that didn't pay full allegiance to prison authorities. For the moments of play against adversaries, prisoners could know and feel themselves as *athletes* more than just as degraded prisoners.

¹⁸ John Bale, *Landscapes of Modern Sport* (Leicester: Leicester University Press; New York: Distributed in the U.S. and Canada by St. Martin's Press, 1994). When Bale posits that sports are “anti-nature,” he means that sports operate in a wholly manipulated spatial environment that has almost nothing to do with the preexisting world. Indeed, much of sport is about dominance of “nature.” While Bale is particularly interested in the construction of stadiums as highly regularized and conventional spaces for athletic competition, I believe the same analysis applies for the disciplining of what penologists understood as “human nature.” Disciplining this human nature was part of what Norbert Elias called the “civilizing process,” and what Gail Bederman identified as being infused with racial, classed, and gendered notions of self-control. Elias, *The Civilizing Process: The History of Manners and State Formation and Civilization*, trans Edmund Jephcott. Vol. 1 (Malden, MA: Blackwell, 1994 [1939]), Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917* (University of Chicago Press, 1995).

Sports also provided differing identities and group coherence for both participants and spectators. Generally speaking, an athletic event provides a narrative structured by ideas of collective (and frequently national) heroism, as the identities and processes nurtured by the identification with a team and the oppositional nature of competition recreated a sense of “self” and “other,” “us” versus “them.”¹⁹ In the case of baseball in the Texas State Prison, throughout the 1930s an increasing number of prison farm teams emerged to play against each other. While the Huntsville Tigers team was supposed to be composed of the best (non-black) players, and served as representatives against the various semi-pro teams that traveled to Huntsville to play, the Tigers met stiff competition from others in the intra-prison system.

On the other hand, at San Quentin’s “Little Olympics” Track and Field Day, teams were structured by labor assignment, which were in turn themselves frequently, but not wholly, structured by race. Sports, in this way, created a sense of collectivity specific to a particular prison farm or a team, such as the Jute Mill Team at San Quentin’s Little Olympics, or the Texas prison’s “New Unit Blue Birds.” By creating this sense of team solidarity based around labor assignment or emplacement on a prison farm, prison guards and managers could root along with prisoners against other teams, guards, inmates and managers. This could create an internal, vertical sense of intra-farm or intra-unit solidarity, rather than a horizontal sense of prisoner solidarity across

¹⁹ On national narratives in sporting events, see Roland Barthes, “The Tour de France as Epic,” in *The Eiffel Tower and Other Mythologies*, trans. Richard Howard (New York: Hill and Wang, 1979), 79-90.

different farms, and possibly against their keepers.²⁰ Evidence shows that managers, at least, felt such intra-farm solidarity. Though there are no records from prisoners to suggest their feelings one way or another about solidarity with their keepers through sports, though we might surmise that prison athletes did feel some allegiance to their “coach” – frequently an assistant farm manager, and that he, too, would feel connected to “his” players, and offer them privileges when possible.

But such an allegiance was far from guaranteed. In contrast to the evidence presented by prisoner-authored newspapers (which rooted for the home team above all else), Donald Clemmer suggested that many prisoner spectators in the early 1930s rooted *against* the prison team and for the visitors. Clemmer suggested that many inmates rooted against the prison team simply because they wanted to root *against* whomever the guards rooted *for*. Thus, rooting against the prison team could be part of opposing the administration itself.²¹

If prison sports did not create a fully vertical sense of solidarity between keepers and inmates, they most certainly did encourage that aggression created by captivity be expended against other inmates through the sanctioned sporting means. In Texas, Lee Simmons, General Manager of the Prison System between 1931 and 1935, said that shortly after prison baseball games were begun, different farms developed heated

²⁰ Benedict Anderson’s discussion of national community formation in *Imagined Communities* is, I feel, applicable to the imagined community of a prison farm through sports and team opposition and identification. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 2d ed. New York: Verso, 1991.

²¹ Clemmer, *The Prison Community*, 212. Erving Goffman had different findings, and the inmates he cited commonly approved of their sports teams, as did prison newspaper writers in Texas and California. Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (New York: Penguin, 1961), 100, 101.

rivalries and "some mighty good baseball games." He continued, "Rivalry between prison-farm teams grew hot. The hotter the better, thought I."²² Rivalries encouraged a displaced aggression from the conditions of incarceration and thwarted opportunities at expression and life, as well as pent up "aggression" and energy, as discussed by sociologists Norbert Elias and Eric Dunning.²³ Indeed, athletics and other forms of play constituted a common disciplinary strategy of the period: Japanese Internment Camp managers in California and Nazi planners deliberately used sports and leisure in this manner.²⁴

One publication from San Quentin proudly publicized, though "[a]t times the rivalry reaches white heat but the sportsmanship is surprisingly good—during the past year no fan or player has been compelled to leave the game."²⁵ Prison sports leagues were intended to nurture precisely this competitive rivalry, held in check by manly

²² Lee Simmons, *Assignment Huntsville: Memoirs of a Texas Prison Official* (Austin: University of Texas Press, 1957), 85, 86. Blake McKelvey agreed that sports were successful in channeling aggression and difference into ideologically sanctioned forms: "in some cases [intramural baseball] developed an institutional spirit that served to check if not eliminate outbreaks of violence." McKelvey, *American Prisons*, 294.

²³ Norbert Elias and Eric Dunning see sport as a thrilling expression of "natural" violence repressed in the civilizing processes of modern life. See *Quest for Excitement: Sport and Leisure in the Civilizing Process* (Oxford, UK: Basil Blackwell, 1986), especially Elias' "Introduction," 19-62, and their jointly written "The Quest for Excitement in Leisure," 63-90. Rather than seeing violence as an essential component of the human condition increasingly contained by state institutions and practices of "civility," I see violence being *produced* by the conditions of modern life, and especially in forced incarceration, which is then sublimated through self discipline and sport.

²⁴ Alison M. Wrynn, "The Recreation and Leisure Pursuits of Japanese Americans in WWII Internment Camps," in George Eisen and David K. Wiggins, eds., *Ethnicity and Sport in North American History and Culture* (Westport, Conn: Greenwood Press, 1994), 117-131. George Eisen demonstrated that Nazis were active supporters of recreation, play, and leisure programs in Theresienstadt, the Jewish ghetto, because, Nazis reasoned, such programs "might have a calming effect on the agitated population." Eisen, *Children and Play in the Holocaust: Games Among the Shadows* (Amherst: University of Massachusetts Press, 1988), 44; cited by Wrynn, 118.

²⁵ 1938 *Little Olympics Program*, "Baseball..." not paginated. Pasted in the *Little Olympics Scrapbook, 1933-1941 Inc.* Archived in the San Francisco Olympic Club's records.

sportsmanship. These were supreme lessons for inmates to learn for incorporation into America's gendered, and racially stratified, market economy.

Baseball was freighted with ideological messages to prisoners. Not only was it "America's game" as mentioned above, baseball was intended to train prisoners in manly athleticism, teamwork, fair play, and sportsmanship. All of these were crucial cultural accoutrements to citizenship. In a speech to inmates in the early years of baseball at San Quentin, Warden James A. Johnston "compared the game of baseball and the game of Life, and assured us all [the prisoners] that by playing both games on the square we could win the reward that is sure to follow honest endeavor."²⁶

The basic structure of prison baseball in Texas and California mirrored the raced and classed imperatives of play in the Major and Minor American baseball leagues. Which is to say, there existed a system of white supremacy and black subordination. White teams were positioned as "the major leagues," granted both esteem and financial support, while black teams were denigrated and less well funded, and had fewer opportunities to play. Ethnoracial Mexican players slid between these positions, though, and given the politics of professional baseball, edged toward the whiter edges of the game, while still existing as raced players. Japanese, Chinese, and Filipino prisoners in California never garnered mention in its baseball leagues. Nevertheless, inmates of all races enjoyed the opportunities to play baseball, the thrill, honor, and masculine performance that it generated. As "America's Game," baseball also gave prisoners terrain on which they could make claims to national belonging, which they

²⁶ "Fans Celebrate Close of Baseball Season." *The Bulletin*, October 1923, 17, 18.

could parlay into privileges and better treatment, as well as tentative acceptance and redemption in wider, consumer-driven leisure culture.

The Texas and California prisons systems shared similarly structured baseball leagues. At one level were the internal prison leagues, in which teams from different prison farms and camps (in Texas) and different, more loosely assembled teams in San Quentin, played against each other on Saturdays. In the other league, an assortment of the best players (predominantly white, with perhaps a few Mexican inmates) from the prison would form something of an All Star team, to play against outside, minor league or semi-pro teams in the area. Leagues were prioritized by the days that they played – the “minor league” games were played on Saturdays, while the “majors” played on Sundays. Sunday games were consistently given more press attention and drew the most talented players from the prison community. In addition, Texas’ All Star team, the Huntsville Tigers, were given better food than the main line inmates.²⁷

The San Quentin baseball program, also structured into Saturday and Sunday Leagues, operated over an eight month season. The Sunday League was “made up of four teams of the best players in the institution. This is considered to be the senior league and has the right of draft from the Junior, the Saturday League. The latter, also a four club league, serves as a proving and developing ground for new talent and affords action for many players a grade below Sunday League caliber.” The All-Stars drew the

²⁷ The *Echo*, May 1929, 12, col. 1, 2. TSLAC microfilm Reel 3541, Labeled as “Nov 1928-1931 and Aug 1944-July 1968” (note that these dates are not strictly accurate).

very best of the inmate athletes to represent the prison against outside teams on specially selected Sundays, for a season of twelve games per year.²⁸

Indeed, the Sunday games against outside teams had prison-press made scorecards, with the date and time of the game printed, along with the name of the visiting team and the roster and batting order for each team. The “major” league teams – notably, the Huntsville Tigers and the San Quentin All Stars – frequently played against nearby corporate sponsored teams. The Tigers had numerous match-ups against the corporate-sponsored teams, such as the Conroe Oilers and the Strake Oilers, while the San Quentin All-Stars played numerous times against the Southern Pacific Trainmen, but also against Pacific Coast League semi-pro teams, as well as teams from nearby Army bases. In games against corporate-sponsored teams, the growing tradition of anti-union company welfare met prison welfare leagues, as each made use of leisure activities to nurture both community and compliance.²⁹

Inmate newspapers also played a significant role in prison baseball and in its disciplinary appeal. Games played by the (white) “major league” teams, either intra-prison games, or especially against outside teams, were reported in exquisite detail, and inmate writers voiced opinions about the quality of play, flubbed opportunities, and fine

²⁸ 1938 *Little Olympics Program*, “Baseball...,” not paginated. Pasted in the *Little Olympics Scrapbook, 1933-1941 Inc.*

²⁹ See “Baseball Program for San Quentin All-Stars v. Southern Pacific Rail Road Club,” online at <http://cpr.org/Museum/Ephemera/Baseball_SPRR_San_Quentin.html>. Accessed June 19, 2004. Also, 1938 *Little Olympics Program*, “1937-38 Entertainment Reviews,” not paginated. Pasted in the *Little Olympics Scrapbook, 1933-1941 Inc.* On sports and corporate paternalism, see Jacquelyn Dowd Hall, et al, *Like a Family*, and Toby Moore, “Transformation of a Southern Cotton Mill Village,” in Philip Scranton, ed., *The Second Wave: Southern Industrialization, from the 1940s to the 1970s* (Athens, GA: University of Georgia Press, 2001); and on organized labor’s use of sport and leisure as an element of community formation, see Lizabeth Cohen, *Making a New Deal*.

skill. Inmate newspapers were themselves important disciplinary and pedagogical devices. They offered selected prisoners access to publication, provided a medium for community formation, and a novel method for prison authorities to distribute information that the prison authorities wanted. Thus, the play-by-play breakdowns of games with credit given and blame cast by name, blended with news from officials for maintaining discipline.

Attention given to the specifics of a game were doubly important when a combined Tiger and Cubs (a team from a different unit) team played against a special visiting team, such as the Houston Police Officers' Baseball Club in 1935. Held scoreless, "the Wiley Gendarmes were sadly cruising about (on foot this time, however) seemingly in quest of something to block out the fearfully round appearance of their scoreboard doughnut." Buddie Ribb, one of the contributing writers, explained that the fielding honors went to the Tigers' Jesse Esparza, who had nine flawless plays, and that the Tiger pitcher Stinson held the Houston Police scoreless in their 2-0 victory.³⁰ Playing against Houston Police officers, this must have been an especially sweet victory.

However, reporting about the black baseball teams was rarely as glowing. In contrast to the detail given to the Huntsville Tigers, as the white team proudly representing the prison against outsiders, the Black Tigers – their official name – garnered little coverage for the few games they played. Indeed, while the Tigers played twenty-nine games against fifteen different teams in 1933, the black team (known as the

³⁰ The *Echo*, August 1935, Vol 7 No 10, p. 6 col 3, 4, TSLAC microfilm Reel 1 (June 1933- December 1948).

Black Cyclones in 1933) played just five, and four of these against the same team, the Riverside Hardhitters. The *Echo's* 1933 October "Special Baseball Edition" carried just two short columns about the black prison team.³¹ And when the Black Cyclones, or later, Black Tigers, were written about, stories were frequently disparaging. One inmate writer described Rudolph Pope, who worked in Huntsville's boiler room (a black-raced job in the institution) and played for the Black Cyclones. The writer, billed only as Prisoner 71387, heaped condescension, with what can only be seen as bilious praise, on Pope:

Rudolph is the heavy complexioned fellow who takes the rap for all the errors made at first by the Cyclone base ball club. And who in his clumsy way of getting from one base to another has been known to knock down and tromp on any player who may step in his line of advance. We consider him one of the most valuable players, which is marked by his ability to apply the hickory to that pill for those 2 and 3 base hits. ...Just stand up Rudolph and smile now and let the people see the gold toofies, so they will be able to recognize you.³²

Another newspaper description of the black team was no less disparaging, and showed many white baseball fans' condescension and racial chauvinism against the Negro Leagues in general. In describing a loss against the Riverside Hardhitters, an anonymous inmate author wrote: "The game was a typical colored affair filled with numerous errors, wild pitches, passed balls and what have you. Bases were stolen at random, earned runs were conspicuous by their scarcity."³³

³¹ The *Echo*, Oct 1933, Vol 5 No 12 - Special Baseball Edition, p.4 col 3,4. TSLAC microfilm Reel 1 (June 1933- December 1948). That the Black Tigers only played against a limited number of Negro League teams suggests that unlike corporate sponsored white teams, Negro League teams had less money to travel to Huntsville for these games.

³² The *Echo*, August 1933, Vol 5 No 10, p 6, col 3, 4, TSLAC microfilm Reel 1 (June 1933- December 1948).

³³ The *Echo*, August 1935, Vol 7 No 10, p 7 col 2. TSLAC microfilm Reel 1 (June 1933- December 1948).

Such racism in white reporting was neither new nor surprising, but it did underscore the ways that blackness and racial hierarchy were reproduced in the prison system through the practices as well as representation of sports. In stark contrast, “white” baseball and its players were represented as involved in a professional, skilled contest among honored men. They earned their bases, their pitches were well under control. One of the fascinating things, however, about baseball in the Texas and California prison systems, was the place that Mexican inmates took. As in much of organized baseball, “Latin” players occupied a contradictory place in the history of penal baseball’s racial hierarchy.

Ethnic Mexicans and Prison Baseball

“Latin” players were deemed eligible for play in the “white” major leagues in the early twentieth century, but only if they were demonstrably “not-black.” Why this was the case in spite of concerted anti-Mexican and anti-Latin racism remains ambiguous in the secondary literature and demands further analysis. Perhaps it was because conceptions of white ethnicity in the northeast in the early twentieth century (based in narratives of immigrant assimilation), were malleable enough to permit “Latin” within a definition of whiteness as not-black, as *other than* African American. This, of course, was aided by the high quality of baseball in Cuba and other Spanish-speaking countries, and the profits that these players could bring to team owners. Nonetheless, Samuel O. Regalado notes that only a handful of “Latin” players ever made it the American Major Leagues before the Second World War, and, despite some

descriptions of “coffee colored” phenotype, all of these players were considered white.³⁴

As in every site where race difference was produced, contradictions were prevalent and the emptiness of whiteness as a category (when defined as “not-black,” rather than by specific attributes) was made apparent. Any player who exhibited even a trace of blackness was outlawed from the white league, but Latinos were not excluded from professional baseball during the New Deal years. Consider the case of Tomás de la Cruz, a “pure Castilian” Cuban player brought in to an Albany, New York, franchise in 1936. Some believed that the owner of the Albany team would be thrown out of baseball because rumor had it that de la Cruz was a Negro. However, the confusion was cleared up when it came to light that someone read the words *pelo negro* (black hair) on de la Cruz’s passport as evidence of his black racial identity. When the confusion ended, and de la Cruz’s non-blackness was established, he could play for the Albany team.³⁵ In the case of baseball, it seemed that the definitions of appropriate ethnoracial identity in this period was founded on being “not-black.” For de la Cruz, no phenotypical marker mattered in establishing his racial identity and ability to play baseball. In this case, it was the misreading of his passport –his state-issued identity – that undermined his ability to participate in professional baseball, rather than any visible sign of race.

³⁴ Samuel O. Regalado, *Viva Baseball: Latin Major Leaguers and Their Special Hunger* (Urbana and Chicago: University of Illinois Press, 1998), 7.

³⁵ Charles C. Alexander, *Breaking the Slump: Baseball in the Depression Era* (New York: Columbia University Press, 2002), 204-7.

Sports historian Samuel O. Regalado also described that some Latin players were victims of racism in the major leagues, despite their official “whiteness.” Cuban-born Roberto Estallela, who was described as “swarthy,” frequently had to endure pitches thrown at his head. Estallela was also described as “coffee colored” by one sportswriter in the 1930s, but he nonetheless played in the major leagues as a white Latin.³⁶ Nonetheless, many black Latino athletes, in Regalado’s terms, were denied entry into the white major leagues. As in the case of Tomás de la Cruz, the inherently contradictory signs of racial identity clashed in the intersection of identity mediated by state or capital/professional institutions, and those of everyday social interaction.³⁷ Phenotype was just one, and not necessarily the most important, of these markers.

In addition, anthropologist Alan M. Kline describes much of the long history of baseball along the US-Mexico Border, and especially in Laredo/Nuevo Laredo, as a very transnational game that “Anglos” and “Mexicanos” played together since the 1880s (though these were almost certainly upper-class games, which “whitened” all of the players, in the ethnoracial-class formation of the period and location).³⁸ In addition, at least one white former professional baseball player in the Texas prison system had

³⁶ Regalado, *Viva Baseball*, 27-28.

³⁷ Loïc Wacquant advocates a distinction between “bureaucratic,” “analytical,” and “folk” definitions of race. Thus while Mexicans may have been known as officially “white” according to the US census prior to 1930, everyday Anglo practice across the southwest was nonetheless thoroughly racist. Wacquant is referenced in Birgit Brander Rasmussen, et al, eds., *The Making and Unmaking of Whiteness* (Durham: Duke University Press, 2001), 8, 21 n.19. See also Arnoldo de Leon, *They Called them Greasers: Anglo Attitudes toward Mexicans in Texas, 1821—1900* (Austin: University of Texas Press, 1982).

³⁸ Alan M. Klein, *Baseball on the Border: A Tale of Two Laredos* (Princeton, NJ: Princeton University Press, 1997), 36, 38.

played in the binational, multiracial Texas-Mexico League.³⁹ The tradition of interracial play may have influenced baseball's racial customs in the Texas prison league, but it was just as likely that Texas prisoners and Texas Leaguers looked toward the centers of baseball authority – the major leagues – and saw that “Latin” players were white enough to play ball at that level.

Texas inmate Jesse Esparza is a prime example of the indeterminate status of Mexican players in Texas prison leagues. Though he played with the (white) Prison Tigers, he was consistently figured as a racial other. Nevertheless, Esparza was also praised and lauded as a masculine player, and subject to the same, though perhaps additional ribbing in the inmate newspapers, that white players received for their good or bad performances.

The interdependent nature of race, gender, and sport came through in the following description of a match between the Tigers and the visiting team from Palestine, Texas, in which Jesse Esparza played as the closing pitcher. The inmate writer had praised the Palestine team for bringing, in his words, “quite a lot of boosters of the better sex in the stands. And some of them quite pleasing to the eye.” After describing the close score, which the reporter explained by saying that white inmates didn't want to disappoint the female fans by beating their team too badly, the inmate writer described how the game ended:

[T]his brought Senor(sic) Esparza to the box. This gentleman had been talking to himself, pitcher, and anybody else he could get to listen to him. Mostly in Spanish, and it is such an expressive language. And when Mr. Moore waived

³⁹ C.J. Bratcher, shortstop for the Tigers, had played for "Odessa and Lubbock—semi-pro teams of the Texas Mexico League." See his interview on *Thirty Minutes Behind the Walls*, Program 64, June 7 1939.

him to the mound, all the fighting blood of his Aztec and Mayan ancestors arose to the surface. And from all we have read about those same ancestors, they never did suffer from an overdose of chivalry. In fact, the charms of the gentler sex played little part in their everyday life.

The Senor put a sudden and violent stop to the festivities, causing the two batters who faced him to tap weakly to the infield. To make sure there would be no more accidents, the Senor threatened the Tiger infield with dire results if there should be any more lapses. And that ended the Palestine threat.⁴⁰

Here was a situation where the Mexican player was distinctly raced through the tropes of Aztec and Maya *blood* and ancestry (who were figured as non-chivalrous – certainly an idea that flies in the face of the long history of machismo). The writer suggested that Esparza's Mexicanness allowed him to resist the feminine wiles of the women in the stands, as the Anglo pitchers had been unable to do. In this representation, then, Esparza was highly masculine, and his threats to the infield to not make any errors carried some weight.

It must also have been significant that an ethnic Mexican player was brought in to be the closing pitcher. This can be interpreted in different ways. One, that he was valued as a good pitcher, certainly, to be used in a tight situation. Conversely, it could also mean that they exhausted the white pitchers before they would bring an ethnoracial other to the esteemed position of pitcher.

However, Mexican ethnic inmates, and Esparza was one of a handful who played over the years with the Huntsville Tigers, complicated the idea of whiteness in baseball, and also on baseball games on the 4th of July. Esparza, who was marked as “Mexican,” could only play for the Tigers and in the 4th of July because of baseball had

⁴⁰ *The Echo*, June 1933, Vol 5 No 7, p 4 col 3, TSLAC microfilm Reel 1 (June 1933- December 1948).

long been understood as an immigrant's game, and a powerful force of "Americanization." In addition, Latino players from baseball powerhouses like Cuba and Venezuela had long played the "national" game (which was, in reality, a far more international, multiracial game than Americans have understood).⁴¹ In the 1930s, many ethnic Mexicans across the southwest were understood, regardless of their national origin, as "foreigners," originally from beyond the ethnoracial and spatial borders of the (white) nation. However, figured as foreigners and through contemporary understandings of ethnicity – as an assimilable difference – given conditions of upward economic mobility and cultural performance of "Americanness," Mexicans could potentially be incorporated into perceived Anglo-American culture.⁴² Masculine skill as baseball players could be such a performance. Thus it was that Esparza went by the Anglicized name "Jesse" in the Huntsville *Echo*. The most celebrated moment of his

⁴¹ See Klien, *Sugarball: The American Game, The Dominican Dream* (New Haven: Yale University Press, 1991), and *Baseball on the Border*; among the many books that describe black ballplayers' international travel to Mexico, the Caribbean and South America to play in winter leagues.

⁴² Michael Omi and Howard Winant offer a succinct and powerful discussion of "ethnicity" and "assimilation" paradigms of ethnoracial formation in *Racial Formations in the United States: From the 1960s to the 1990s* (New York: Routledge, 1994), 14-23. For a brief discussion of middle class Mexican American cultural and political strategies for recognition as "Mexican Americans" (in opposition to working class or Mexican nationals), see Manuel Peña, *The Mexican American Orquesta: Music, Culture, and the Dialectic of Conflict* (Austin: University of Texas Press, 1999), esp. 93-122. Peña draws on Mario T. García's *Mexican Americans: Leadership, Ideology and Identity* (New Haven: Yale University Press, 1989). It bears note that I am emphatically *not* asserting that the experience of Mexican Americans in the United States can be understood through what scholars describe as an "immigration" model of arrival and acculturation/assimilation. This model has been soundly criticized by many in ethnic studies for its Eurocentric bias (see Emma Pérez, *The Decolonial Imaginary*), and especially for Mexican American and Native American groups in the US. However, I do think that it does make sense to use the "immigration model" as used by sports scholars like S. W. Pope to understand how different people, Latinos, in this case, used baseball to claim a place in American life. Jesse Esparza could have demanded to play with the Black Tigers, but understandably, he did not relinquish the privileges of intermediate whiteness. He thus paired his off-white racial identity, and placed himself (and was placed by prison officials and white inmates) in opposition to African Americans in the prison sports programs, and who remained excluded from professional baseball until 1946. In the period of the "lily white" major leagues, and to explain the presence of "Latin" players, it does seem to make sense as a heuristic device in this admittedly cursory research into this aspect of sports history.

prison baseball career took place in a single game against a professional team, the Houston Buffalos, at their home field in Houston. In front of the second largest crowd ever gathered at Buff Stadium, Jesse Esparza scored the winning run. He was lifted onto the shoulders of his white teammates, who carried him around the field in rapturous celebration.⁴³ This moment would remain unthinkable for a black player in the Texas Leagues, behind bars or not, for many years to come.

There seemed to have been a parallel inclusion of ethnoracial Mexican players in the California Prison System. Indeed, the All-Star's roster contained a *mélange* of different "ethnic" names. A man named Jefferies played catcher, while another named Juarez was the shortstop. Goode batted clean-up and played left field, and Garcia played right field. Brook at 1st base, Griffin at centerfield, and Farrell at 3rd base. The pitching staff consisted of inmates named Roy, Conchola, Stoponski, Stern, Tennant and Paulsen. The San Quentin reserve players were Martinez, Cusak, Torrez, Adams, Pittman, Keyrose, Johnson, and Sokoloff. In addition, the Southern Pacific team, a consistent opponent of the San Quentin All-Stars, had a mix of "ethnic" names, with Italian, German, Spanish, and eastern European surnamed players on the team.⁴⁴ From their names, it is difficult to know how many, if any, of these players, would have been considered black. Given that black, white, Japanese, and Mexican players could compete on the same teams in the California semi-pro and sandlot leagues, it is

⁴³ Simmons, *Assignment Huntsville*, 86-90.

⁴⁴ "Baseball Program for SQ All-Stars v. Southern Pacific Rail Road Club," Sunday, July 24, 1932, accessed online at <http://cpr.org/Museum/Ephemera/Baseball_SPRR_San_Quentin.html> Accessed June 19, 2004.

conceivable, but as yet unverified, that some black inmates might play for the San Quentin All-Stars.⁴⁵

California's maximum security Folsom Prison's athletics program offers intriguing information on the state of racial sports in California. One scrap of material survives, outlining a "new" set of rules for the softball league. Originally published in the Folsom *Observer*, the inmate newspaper publicized the new rules of play for softball in 1942, to structure hierarchy in play, racial differentiation, respect for good order and the umpire:

1. Each minor league manager may use three A players and two All Star players.
2. At no time will you be allowed to use a player who is signed with another Club.
3. A player who has had a try-out with the All Stars is not considered an All Star player.
4. Minor colored players are subject to be drafted into the American league.
5. Any other Club can use two colored players.
6. The colored team is allowed only colored players.
7. Keep players from unnecessary arguments with umpires. Otherwise they will be banned from the game.⁴⁶

Furthermore, Folsom authorities planned an expanded prison athletics program during WW II, when fewer outside teams were available for play. But this expanded league was, too, structured by racial difference. The Saturday baseball league, reformed in late 1942, had three teams that would play against each other. One of these, inmate writers pointed out, would be the Padres, an "all Mexican team." In the Sunday

⁴⁵ José M. Alamillo, "Mexican American Baseball: Masculinity, Racial Struggle, and Labor Politics in Southern California, 1930—1950," *Sports Matters: Race, Recreation, and Culture*, eds. John Bloom and Michael Nevin Willard (New York: New York University Press, 2002), 86—115, esp. 100—104..

⁴⁶ Folsom *Observer*, Nov 6, 1942, p. 4 col 2, CSL. Especially significant was that "colored" players might play on unmarked club teams, but that no white players could play on the colored team.

League, in addition to two racially-unmarked teams, inmate Bing Miller would “direct the Reds, a fast-stepping and colorful team of Negro stars.”⁴⁷ Thus there was racial segregation of black, white, and Mexican inmates in sports, but it appears as if they could play against each other in the war years. Evidence is scanty for the depression period. While these racially differentiated teams certainly underlined and reified racial difference, and likely antagonism, at Folsom, players could meet each other as equals on the field.

Unlike in California, and unlike ethnoracial Mexican players, African Americans remained fully excluded from “white” baseball in Texas because they were understood not as foreigners, according to an immigration or ethnicity model, and thus potentially assimilable, but as an “internal” and permanently unassimilable racial other.⁴⁸ Blackness was understood as already “within” Texan society, but in an abject and subordinate position requiring spatial segregation, permanent policing, and containment in stratified labor markets.⁴⁹ While the racial category of “Latin” (as opposed to “Mexican”) could eventually become “hispanic,” with whitened associations through class and cultural performance, this was impossible for African Americans. Being a “white African American,” despite class, culture, skilled baseball performance, and the politics of respectability, remained a contradiction in terms.⁵⁰ Jesse Esparza,

⁴⁷ Folsom *Observer*, Nov 13, 1942, p 4 col 4, CSL.

⁴⁸ Omi and Winant, *Racial Formations*. See also Philip Deloria, “‘I Am of the Body’: Thoughts on My Grandfather, Culture, and Sports,” *South Atlantic Quarterly*, Vol. 95 No. 2, Spring 1996, 321—338, esp. 328.

⁴⁹ Loïc Wacquant, “From Slavery to Mass Incarceration: Rethinking the ‘Race Question’ in the U. S.” *New Left Review*, 13, (January-February 2002): 41-60.

⁵⁰ That this was true in the American context did not mean that it was true everywhere. Indeed, Marcus Garvey discussed “black whites” in the context of Jamaican racial formations in the early 20th century.

and other ethnic Mexican baseball players in the Texas and California Prison leagues, demonstrated the relational features of racial identities, and the ways in which even the shifting terms of whiteness and blackness anchored the hierarchy of racial discourse, representation, and materiality. Nonetheless, the presence of ethnoracial Mexicans in “white” prison baseball presaged a modest transformation in racial formations, when racialized subjects would be permitted to perform in American athletics and in entertainment – certainly symbolically important locations in American culture, and worth fighting for by excluded peoples – while remaining largely barred from equal footing with whites in political and economic terms.

Pages above outline some of the contours of how baseball in the prison functioned. Often, however, some situations demonstrated the complexities that individual cases presented. Lee Simmons, Texas prison General Manager related a story in his memoirs, and which he considered to be a high point of baseball played in the Texas System.

Simmons told a story about the game between the Negro teams from Central and Clemens Farms. He recounted that prisoners always wanted Simmons to come and see them play. While Simmons felt flattered by this, it was just as likely that prisoners hoped Simmons might have them transferred to Huntsville to play there, where educational, medical, and work opportunities were better than they were on the farms.

When I mention the impossibility of "white African Americans," I do so in reference to the specific racial context of 20th century American racial typologies, which disallowed the possibilities that existed in Garvey's Jamaica. See Garvey quoted in Grace Elizabeth Hale, *Making Whiteness*, 28.

But in Simmon's story, Clemens State Farm Manager Hickman liked baseball, and, according to Simmons, "had the best Negro team in the system." Buck Miles, the Assistant Manager of the Clemens Farm, managed the baseball team. According to the story, the teams from Clemens and Central Farms played on an exceptionally hot day. Despite the heat, the Central Farm pitcher was really beating the Clemens Farm batters. According to Simmons, the pitcher "was swabbing the sweat out of his eyes and fogging that ball across the plate. He was making the batters cross-eyed." After wiping the sweat from his face one time too many, Clemens manager Miles shouted to the other manager from Central Farm: "Flanagan, you old son of a sodalitarian, you've got your white pitcher and catcher in there! Get 'em out!" According to Simmons, Flanagan "had his stage-show man get out his make-up kit and blacken the two white players to match the complexion of the rest of the team. Of course, Flanagan had to take out his burnt-cork battery—and the Clemens Farm outfit went on to win handily."⁵¹

In Simmons's memorial of this baseball game, the white players were the physical superiors to the black players, and this of course had racial and political ramifications at the time of writing and publishing the story in 1957. However, one is tempted to try and imagine what the actual circumstances were in the early 1930s, the actual historical moment Simmons describes.

With this in mind, it is entirely possible that the Central Farm white team had a great pitcher and catcher – there were surely a number of excellent athletes in the system (and enough professional baseball players that there was even a printed space

⁵¹ Simmons, *Assignment Huntsville*, 85-86.

for them in the "occupation" category in prison inmate intake ledgers). That much isn't too difficult to imagine. But having the pitcher and catcher "black-up" with burnt cork to pass as black seems unbelievable. Who was the manager trying to fool? Certainly the players on the Central team knew what was going on, and it would have been clear enough to the Clemens players, too, that these were white men in blackface. What must they have been thinking in the midst of the game? What did it mean, then, to be black and white for the players on the field? For the regular pitcher on the Central Negro team? For the prisoners in the grandstand? For "the public" who also watched from the stands? Given the limitation of source material, it is difficult to know. In any case, this was a moment when the physical differences between masculine whiteness and blackness were reified yet again. The burnt cork made the ringer pitcher even whiter, and the fact that this was a very skilled ballplayer equated whiteness with athletic skill at baseball. Indeed, a common belief of the day was that while "Negroes" were gifted "natural" athletes, the very best baseball players in the world (and the major leagues) were all white. (The discourse – of black natural talent but lack of virtuosity at the highest levels – was the same around "jazz" and swing music.) When the "white" players were forced off the field, the Clemens team won, thus reinforcing both the discourses of white supremacy and the ultimate triumph fair play. The ejection of the "white" players also eclipsed the possibility of black and white players together on teams competing in the Texas Prison System.⁵²

⁵² My analysis here draws on Eric Lott, *Love and Theft: Blackface Minstrelsy and the American Working Class* (New York: Oxford University Press, 1993).

Furthermore, this moment showed some of the cracks in state sports pedagogy and practice. A large measure of the disciplinary and ideological value of prison sports lay in teaching fair play and a good work ethic, and yet the General Manager of the Central Farm *cheated* by bringing better, but ineligible players onto the field. More importantly, he broke one of the cardinal “rules of the game” – which was to maintain racial segregation. But the rule breaking and boundary crossing here didn't undermine racial difference, quite the opposite. It underscored white masculine supremacy and state-sponsored racial hierarchy. It also showed a manager cheating, probably trying to win one of the many bets that were surely placed on the game, given the predominance of gambling in the prison system. More important, perhaps, is that this story was remembered so fondly by ex-General Manager Simmons, as a humorous tale of what fun the prisoners had in their leisure hours. The “humor” of the story in Simmons’ retelling came through the fact that masculine racial difference was momentarily crossed, but then more deeply entrenched. In the end, justice was done and Clemens, the better team, won. The humor came from the idea that the manager would try to “black-up” white ringers and sneak them into a Negro game. This racial crossing was thus understood as “mischievous” rather than transgressive, or as any substantive form of “cheating.” If a manager cheated, it was all in good fun. But if a worker, a prisoner, or racial other “bent the rules,” firm discipline was in order. Despite Simmons’ “progressive” ideas about sports and recreation, and his founding of the Texas Prison

Rodeo, Simmons remained firmly committed to the whip as an appropriate form of punishment, for years after he left the prison system.⁵³

The World's Fastest and Wildest Rodeo

The Texas Prison Rodeo, originally billed as the “Fastest and Wildest Rodeo in Texas” (later expanded to “The World”) was first instituted in 1931 as a self-proclaimed progressive reform. Lee Simmons, the General Manager who claimed the rodeo as his brainchild, believed that a rodeo would be a fine way to bring fun to both prisoners and guards at little or no cost to the system itself. It quickly grew in size and popularity, from a few hundred spectators in 1931 to tens of thousands each Sunday in October by the end of the decade. The prison stadium was built, expanded, and rebuilt again to hold the overflowing crowds, thousands of whom were regularly turned away for lack of capacity.

In the World's Fastest and Wildest Rodeo, according to one radio advertisement, “one hundred and fifty daring inmate buckaroos will clash with outlaw broncs, vicious brahama bulls and steers, which have been brought in from the outlying reaches of the vast farmlands and river bottom pastures of the System. It's a case were outlaw meets outlaw! And there will be action such as you have never seen before....”⁵⁴ Thousands came from far and wide to see the festivities, and according to Prison Official Albert

⁵³ Simmons, *Assignment Huntsville*, ix-x. Simmons instructed inmates and his readers that firm discipline was what his father gave him, and that he would give the same to “his” inmates.

⁵⁴ *Thirty Minutes Behind the Walls*, Program 80, Sept 27 1939.

Moore, the first Sunday's rodeo in 1939 drew "the largest crowd ever to witness a rodeo in the United States."⁵⁵

Baseball may have been America's game, but rodeos hold a special place in many Texans' hearts. As such, it accessed a different form of nationalism and state-mediated identity than baseball did. Like baseball, the rodeo was notable in the way that it structured the temporality of the prison year, and how its creation of "leisure" validated the existence of "labor" as an organizing force of life. But unlike baseball, as discussed above, the Texas rodeo was based in an Anglo-Texan memory of the American West, and steeped in the lore of the open frontier. On the Introductory page of the *8th Annual Rodeo Souvenir Program*, the prison's General Manager O. J. S. Ellingson wrote:

Right here let us turn the clock of time back to the days of the great ranches of the Old West...When the season's work was over; when the cutting and branding was done, it was the custom to make sport of the rangeland routine that made up the cowboy's work-a-day world. And as the rodeo of bygone days grew out of the cowboy's desire to play at his work, so did this rodeo grow out of our desire to provide a period of recreation for the prisoners after the principal work on our vast farmlands had been done. In the years since the inauguration of this feature the annual prison rodeo has become a tradition.⁵⁶

Ellingson's explicit invocation of tradition links nicely with Eric Hobsbawm and Terrence Ranger's *The Invention of Tradition*.⁵⁷ Memory became reshaped and redetermined in order to legitimize contemporary social practice. In this case, the Huntsville rodeo became an invented tradition in a matter of 8 years, but even more so,

⁵⁵ *Thirty Minutes Behind the Walls*, Program 81, Oct 4 1939.

⁵⁶ *Official Program Souvenir of the 8th Annual Prison Rodeo*, 5, TSLAC, Box 1998/038-404, Folder "Rodeo Program 1939."

⁵⁷ Eric Hobsbawm and Terrence Ranger, eds., *The Invention of Tradition* (New York: Cambridge University Press, 1992).

the Anglo Texan memory of a white, ranching past, an idyllic time of masculine labor in the open range, was valorized and made real. It was especially in this period, in the thick of the great depression, when the image of the free and independent cowboy roving the range could embody the freedom that so many white men (all men, really) desired, as their financial dependence become more thoroughly and clearly tied to wage labor, and the chances of becoming their own bosses were ever diminishing. As discussed in the chapter above, this Anglo memory of the West largely occluded the presence of Mexicano/as and African Americans in Texas' history, and of Native Americans as anything other than obstacles for orderly progress.⁵⁸ Nevertheless, a few black and Mexican inmates did participate as contestants in the Rodeo, as well as “entertainment” in the Cotton Pickers Glee Club, or comedic song routines. Rodeo founder and prison General Manager Lee Simmons outlined the place of black men in the rodeo, and in his memory of frontier Texas:

We had one 385-pound singer who had an unusually powerful voice of wonderful quality. As stage props for his entry, I had the boys rig up an old one-horse wagon, to which we hitched a large and angular mule that had not been sheared in some time. Under the wagon we tethered an old hound. The wagon contained a few old quilts and like plunder, while on the side next the grandstand we hung a skillet, a coffee pot, and a lantern.

The instructions to our big singer were to drive into the arena about midway of the grounds without looking up until he got opposite the grandstand. Then he was to halt his equipage, stand up in the wagon and sing “Goin Down Dat

⁵⁸ Richard R. Flores, *Remembering the Alamo: Memory, Modernity, and the Master Symbol* (Austin: University of Texas Press, 2002). On the political significance of image of the cowboy in the Depression, see James N. Gregory, *American Exodus: The Dusty Bowl Migration and Okie Culture in California* (New York: Oxford University Press, 1989), 222—238; Bill Malone, *Country Music, U. S. A.*, 2d ed. (Austin: University of Texas Press, 2002), 137—175.

Lonesome Road.” He knocked them over—he really did. And I got as big a kick out of it as anyone.⁵⁹

While many white spectators thrilled to the memory of Texas’s frontier past, they were also tantalized by the threat and spectacle of seeing spilled blood. Spectators’ interest was aroused with the following description of a Brahma bull, quoted from the prison’s Souvenir Rodeo Program "No more savage beast has ever crossed a rodeo arena than a mad Brahma bull. More often than not, having thrown his rider, the bull will turn and charge him, sharp horns lowered for the kill."⁶⁰ Indeed, the danger was a vital part of the performance, when spectators thronged to see inmates – sometimes in explicitly degrading convict stripes, sometimes not – risk dismemberment and chance glory before an ebullient crowd.

Consider also this description of the “Mad Scramble,” a rodeo event called too dangerous to exist in outside rodeos:

The mad scramble combines thrills, spills, chills, and action into one of the most comically spectacular of all rodeo events. All chutes are flung open simultaneously. Contestants are mounted on wild bulls, saddle broncs, bareback broncs, wild cows and mane-hold horses.

These animals, chosen chiefly because of some freak trick of bucking, are selected from the prison's herd of wild rodeo livestock. Wild bulls are ridden with a belled loose rope; saddle broncs are contested according to association rules; bareback broncs are ridden with a surcingle, just as in the regular bareback event, and riders drawing a mane-hold horse are allowed only a firm hand hold on the wild animal's mane. This last is really fun!

Sometimes a rider manages to maneuver his mount into a clear and less dangerous spot in the arena but this is usually impossible. Animals used in this event simply ignore the performer's wishes and seem drawn toward each other

⁵⁹ Simmons, *Assignment Huntsville*, 111.

⁶⁰ *Official Program Souvenir of the 12th Annual Prison Rodeo*, TSLAC, Box 1998/038-404, Folder "Rodeo Program 1942" (no pagination in program).

as if by a magnet. *This adds danger as well as spice to the contest, for occasionally there is a head-on collision and riders, as well as their mounts, go down in a heap.* Almost all of the inmate performers clamor to take part in the mad scramble, however, even though only a limited number of them may do so at each performance.⁶¹

The “danger and spice” of the rodeo was alluring and permissible precisely because prisoners were constituted as every bit as desperate as the animals they rode. Having violated the laws of the land, injuries received could even be seen as one element of their punishment. Nevertheless, as one program read, “nowhere will you find a more dangerous athletic contest.”⁶² Competition, danger, crowds of cheering and paying spectators. Lessons of individual manly competition and ticket prices combined to make this lesson in turbulent market capitalism, a metaphor for life in the depression, and how to succeed.

In 1941 Mary Waurine Hunter penned an article entitled “No Holds Barred: Best Possible Morale Builder is Bone-Cracking Prison Rodeo,” for the magazine *Texas Parade*. In it, she explained the draw for the crowds: “*Action* is what brings them here, *action* is what they get—raw, unadulterated, kicking, goring, bone-cracking action.” In a caption accompanying a photo in the article, Hunter wrote, “Jack Williams, a 25-year man, drew a tough critter. After falling on his rider, the bull rolled over, got to his feet, and gored Williams.” This was what many of the more than 105,000 spectators at the 1941 rodeo came to see. “Most of the firstcomers (sic) [to the rodeo], however, are there to see the madcap battle between some of the meanest critters in the rodeo game

⁶¹ *Official Program Souvenir of the 8th Annual Prison Rodeo*, p. 13. TSLAC, Box 1998/038-404, Folder “Rodeo Program 1939.” Emphasis added.

⁶² *Ibid*, p. 11.

and a few men eager to take the lid off of their pent-up emotions and let go in a few riotous, sky-hooting flurries of excitement."⁶³

But in addition to the fear and desire of seeing social outcasts get gored or trampled, teeming crowds were willing to heap adoration on prisoners who survived and excelled in the face of danger against a wild beast. "The crowd roars loudest over the bronc forking and the wild bull riding. When Bob Campbell came plunging out of the chute this year to fork a mean bronc named Sky Rocket to a finish, every spectator came to his (sic) feet, yelling encouragement. When wiry Raymond Cameron kicked his wild Brahma into a frenzy, the crowd worked itself into another. For a little cigaret (sic) money these boys were risking their very lives."⁶⁴ And the crowds loved it.

For inmates who participated, alongside the danger and cigarette money came masculine prestige. Aaron Snyder, a rodeo cowboy prior to incarceration, explained his participation in the rodeo: "I go in for everything that's rough! Bareback bronc riding, wild cow milking, wild mule racing and wild horse racing and of course I will be in on the mad scramble which is the big opening event on the program...." Snyder particularly relished in the mad scramble, which he called "the wildest, roughest, toughest and fastest event known to the rodeo world."⁶⁵

With resounding bravado, Morris Hager explained that danger and risk of injury were standard, and the threats of injury pleasurable, for rodeo participants: "It wouldn't be a rodeo if some of them didn't get hurt. That's what puts spice into the thing-the

⁶³ Mary Waurine Hunter, "No Holds Barred: Best Possible Morale Builder is Bone-Cracking Prison Rodeo," *Texas Parade*, Vol VI, No 6, Nov 1941, pp16-17, 25. Archived at CAH.

⁶⁴ Ibid.

⁶⁵ *Thirty Minutes Behind the Walls*, Program 79 Sept 20, 1939.

danger there is in it. We like it that way. I don't imagine any of the boys would want to get into a **tame** rodeo. Wouldn't be any fun."⁶⁶ Mona Bell, another rider, said that danger was "all in the game. Nobody takes a hand in it unless he wants to—I mean, he isn't forced to ride, or anything like that."⁶⁷ For Snyder and Hager, the allure of the rodeo was the prestige and the performance of potent masculinity and skill, braving fear, danger, and death in a battle of "man" against "beast." And, being seen as an expert, powerful man in front of tens of thousands of cheering people.

Just as a fine play on the baseball diamond brought prestige for the player in front of other prisoners, keepers, and the free-world audience, *style* was perhaps even more important for rodeo riders. Despite the awarding of points for a good ride (as a measure of control and imposition of hierarchy by judges), forms of style must have been something that, since it resided in the bodies of the inmates and communicated directly with cheering (or jeering) fans, remained somewhat outside of the scope of prison officials.⁶⁸ When an inmate reached these heights of performance, they could create "a point of unity between audience and player that occurs when a

⁶⁶ *Thirty Minutes Behind the Walls*, Program 22. Aug 17 1938. Bold in original.

⁶⁷ *Thirty Minutes Behind the Walls*, Program 20. Aug 3 1938.

⁶⁸ Dick Hebdige, *Subculture: The Meaning of Style* (New York: Routledge, 1997 [1979]). While Hebdige's analysis centers predominantly on clothing as a mode of oppositional political performance, I expand upon his definition here to include athletic and bodily performance, of which clothing is a part. However, in the context of sporting events, and especially in a judged and regimented rodeo event, *style* was all that mattered for both scoring and for prestige. Thus bodily *style* here wasn't necessarily subversive (it was the element by which prison athletes were ranked, judged, and applauded by prisoners, fans, and administrators alike), but it did contain elements that *exceeded* the control of prison authorities, and which linked performers to audiences in moments of pride and celebration. Of course, all of this was compounded in a prison event that celebrated the prison and its "humane" administration. This was the very instability and polysemy of the prison rodeo.

player...performs...with exceptional ease, grace, and flair, taking a risk while maintaining control."⁶⁹

Saddle bronc riding was particularly a matter of style, control, and expertise in the face of danger. Contestants were to try and stay on the horse for 8 seconds. The rules for the athletic performance were specific: The rider was not permitted to change hands on the rein, "which must always show daylight on the horse's neck." "All contestants must leave the chute with both feet in the stirrups and with both spurs against the horse's shoulders. During the first four jumps made by the animal, the rider must scratch him on each shoulder and then spur bothways."⁷⁰

A rider could be disqualified if he bucked off of the horse, if he "coasted" with his feet against the horse's shoulders and didn't spur the horse; if changed hands on the reins or wrapped the rein around his hand. Using any "illegitimate" substance on his clothing or equipment, or not being ready when called were also disqualifiable offenses. Finally, "pulling leather," that is, using a free hand to hold onto the saddle itself, was a disqualifiable offense and was particularly "scorned by all real cowboys."⁷¹

⁶⁹ Gena Caponi-Tabery, "Jump for Joy: Jump Blues, Dance, and Basketball in 1930s African America," *Sports Matters: Race, Recreation, and Culture*, eds. John Bloom and Michael Nevin Willard (New York: New York University Press, 2002), 39—74, esp. 57-58. Caponi-Tabery borrows a term from composer Olly Wilson, which he called a "soul focal moment." According to Caponi-Tabery, a soul focal moment is not gratuitous showmanship--its artistry is functional and accomplishes what the moment requires, but with a degree and twist of virtuosity that is unnecessary and unexpected. The audience gasps in surprise, exclaims with pleasure, bursts into applause, and audience and player are united in appreciation for the endless inventiveness of human expression. The soul focal moment is showy, to be sure, but this is not a one-person show, for the soul focal moment elevates a community, and its master is the ultimate team player.

⁷⁰ *Official Program Souvenir of the 8th Annual Prison Rodeo*, 9, 19. TSLAC, Box 1998/038-404, Folder "Rodeo Program 1939."

⁷¹ *Ibid.*

The phenomenology of play and of style were crucial to rodeo riders, and to all prison athletes. The rodeo engaged prisoners' bodies in ways that become tremendously powerful: as ways to exceed everyday living, as a particular sort of intensity of experience that constitutes people in particular ways, and in which they also constitute themselves. This perspectival focus on the experience of sport mitigates the top-down model of prison athletics as an embodiment of simple nationalism, capitalist leisure, or repressive masculinity in the maintenance of prison hegemony.

When prisoners entered the bull ring or walked onto the pitchers' mound, they could attain an intensity of experience and focus that later-day athletes would refer to as going into "the zone." In his ethnography of baseball along the Texas-Mexico border, Alan Klein discusses players' experiences. Entering "the zone," as one informant referred to it, was literally a spatial transformation which Kline identified as "hyper-remote" from the location and environment of which a player was a part. One batter told Klein that once he got into the on-deck circle, "I couldn't even hear the fans. Nothing but me and the pitch."⁷² Though evidentiary material is regrettably thin for depression-era prisoners, one can imagine that the sort of intensity of experience and unalienated athletic production could temporarily exceed the bounds of the prison, which then made its impositions more bearable until that next, sought-after moment arrived.⁷³

One can imagine what it felt like for a prisoner to ride a bronc in front of tens of thousands of cheering fans, to be seen, known and celebrated for their bravery,

⁷² Kline, *Baseball on the Border*, xiv.

⁷³ See the definition of exceeding above, borrowed from Judith Butler, *The Psychic Life of Power*, 17-18.

masculinity, and their style. Imagine the nervousness and anticipation of a rodeo ride: mounting a bull in the chute, the intensity of this experience drowning out the roar of the crowd, the pain of a previous injury now gone, focusing down to a hand pinched tight under the rope around a Brahma 's back, the musk of its sweat and coarse fur, other hand in the air for style, feet and spurs on the bulls shoulders, looking for a perfect ride. The gate would swing open, and the thousand pound beast took off, with you in the saddle. One can imagine being a young man playing baseball, knowing that there were members of the “fairer sex” in the audience, watching his every move. Stepping to the plate, hefting the weight of the bat, and waiting for the pitch. Recently, J. H. Bird, Texas prison rodeo director in 1986, speculated as to why prisoners risked life and limb for a few moments of fleeting glory. The rodeo was one of very few moments for a prisoner to be cheered and recognized as a worthy person. For some of these men, he suggested, having thousands cheer for them may have provided for a life long memory.⁷⁴

Anthropologist Elizabeth Atwood Lawrence suggests that rodeo contestants’ relationship with pain is one in which they fight themselves and their bodies for self-mastery. Rodeos are events in which contestants can and do get hurt – and often badly. Yet the conquest of a wild animal was part of the same effort for cowboys to "conquer fear and pain," in Lawrence's words.⁷⁵ We can surmise that this was doubly so for

⁷⁴ B. Jacoby and H. McGillacutty, "A Look Back At A Texas Tradition," in *Clock Wise*, November 1986, 9-11. Archived at the TSLAC, Box 1998/038-404: Clippings, Brochures, Programs for the Rodeo, Folder 1, "Clippings about the Rodeo, 1931—1986."

⁷⁵ Elizabeth Atwood Lawrence, *Rodeo: An Anthropologist Looks at The Wild and the Tame* (Knoxville, University of Tennessee Press, 1982), 208-210.

Texas prisoners, who controlled so little of their own lives. Indeed, mastery of fear and pain were necessary skills for surviving prison at all.

Though Mary Waurine Hunter, the reporter cited above, said that prisoners were risking their lives for a little cigarette money, it was more likely that they did it for the moments of glory and prestige, for the intensity of their celebrity and their physical experience. That they did it to be seen in public. When Raymond Cameron worked the crowd into a frenzy and Bob Campbell rode Sky Rocket to the finish, they heard cheers and felt the celebration of thousands of women and men. Those fleeting moments needed to last for the rest of the year, as they labored in drudgery and obscurity, invisible and socially ostracized. The rodeo thus accessed for the prisoners who were permitted to participate a celebrated, working-class masculinity, fundamentally based in self-control. Rodeo participants visibly overcame pain, fear, and danger, understood to themselves and to the crowds through the sedimented myths of the American West. While a handful of black and Mexican prisoners were able to ride in the rodeo and gain its prestige (increasingly so in the postwar years), the rodeo, like the narratives of Texas and Western History, relegated racial others to minor characters in the background of white redemption.

The Economics of the Rodeo

Despite the fact that prison athletics were decidedly not a form of wage labor – and this was part of their appeal to both managers and prisoners alike – this does not mean that prison sports had no economic value. On the contrary, prison sports,

particularly Huntsville rodeo, could be highly financially profitable events for prison systems. As Mr. Barnett, Huntsville Print Shop Manager, Production Manager of *Thirty Minutes*, and officer in charge of advertising for the rodeo, told *Thirty Minutes* listeners: “Vocational and academic education throughout the vast prison system have made more progress during the past decade than has been enjoyed in the entire time since the first prisoner entered ... Huntsville Prison nearly a hundred years ago....This miraculous advancement would not have been possible without the support of the Educational Fund which the Prison Rodeo helps to provide...There has never been any fund set aside by the legislature to finance a program of amusements and recreations” and the prisoners, Barnett suggested, needed many people to attend.⁷⁶

However, of the many events in the Texas prison, the rodeo was far and away the most profitable. The first rodeo netted some \$600 in admission fees, while in later years, the Huntsville Rodeo garnered tens of thousands of dollars for the system each and every October.⁷⁷ This was actually a selling point of the rodeo itself. Time and again, listeners on *Thirty Minutes Behind the Walls* (one of the primary advertising vehicles for the rodeo) were told that their .50 cent admission charge (.25 cents for children) would go toward the Educational and Recreational Program of the prison

⁷⁶ *Thirty Minutes Behind the Walls*, Program 131, Sept 25, 1940. On recreation advocates in the Texas prison and their defensiveness about being fiscally responsible and never costing taxpayers money, see Charlotte A. Teagle, *History of Welfare Activities of the Texas Prison Board, 1927—1940*, TSLAC, Department of Corrections Records, Box 1998/038-124. According to Teagle, a member of the Prison Board, the "Recreation Department [was] the foundation of all Welfare Activities in the Texas Prison System" because ticket sales generated "the revenue needed for carrying on our welfare activities" including "libraries, band, vocational training, baseball, soft ball, and volley ball; the rodeo, moving pictures, etc."

⁷⁷ Some 105,000 guests came to the rodeo in 1941. Even if 5000 of these were either children or police officers (who paid half or no admission), the inmate participants would have earned more than \$50,000 for the prison system.

system. Incidentally, members of the state police force, and guards and their families, were admitted free of charge. Barnett explained:

Many of our listeners would like to know just what the money taken in at the Rodeo is used for, so here are some of the things purchased with fifty cents admission: Musical instruments for the large Military band, and for the various string bands over the System, fiction, biographical, technical and vocational books, magazines, hymn books, religious tracts, Sunday school lessons, Bibles, radios, loud speakers, and moving picture equipment were paid for out of this fund last year... So, while you are attending the Prison Rodeo and enjoying the action in the arena, you are also assisting the Prison Board and the management in carrying out an educational program that is reformatory and rehabilitative, thereby making better men and women out of the unfortunates who have fallen from society and are now inmates of the Texas Penitentiary.⁷⁸

The rodeo would be broadcast over WBAP, too, for those who could not attend.

In essence, then, prisoners worked as entertainers, earning money for the maintenance and "modernization" of the prison system, while spectators paid covert taxes toward the recreational, educational, and rehabilitative programs that the Texas Legislature deigned to support. As both producers and consumers, working class Texans supported the prison system financially, as it circulated entertaining messages about crime and punishment, and about the beneficence of the state. All were exploited in this scheme of a "fiscally conservative" government.

The Gender of Women's Athletics

Women prisoners, too, participated in athletic culture in Texas and California prisons, but their physical training was far less centered around competitive sport (figured as masculine and as part of *sportsmanship*) than it was around recreating

⁷⁸ *Thirty Minutes Behind the Walls*, Program 132, Oct 2, 1940.

common sense understandings of womanhood. Clara Phillips, writing from San Quentin in *The Bulletin*, described the “Physical Culture” class at San Quentin (before the women’s prison opened in Tehachapi in 1936). Phillips informed readers that Spartan women had trained as athletes, so that they might bear healthy children. This, too, was part of the goal at San Quentin. But there were numerous methods for achieving such healthy motherhood.

Phillips told readers that on one occasion, their Physical Culture class played a record by Walter Camp record in the Library. (Camp was a famous turn-of-the-century college football coach, a founder of the NCAA, and, according to historian Mark Dyreson, “a major public figure in the cult of the strenuous life.”⁷⁹) In Phillips’ description of the physical culture class, “fifty women follow their leader through the most intricate and difficult of setting-up exercises. No real gymnasium costumes; just anything that happens to be handy to jump into – so that the Physical Culture class in the Women’s Department resembles a flower-garden in a high wind when it goes into action.”⁸⁰ She continued:

Under the direction of the State, and the supervision of an inmate teacher, the class for physical development meets regularly. The teacher has some knowledge of the exercise needed for certain bodily corrections, and also the importance of a balanced diet.

Not only must healthy bodily organs be kept in perfect functional order by the essentials of fresh air, rest, proper mental and physical exercise, but the healthy mind must be given the chance to function in the healthy body.⁸¹

⁷⁹ Mark Dryeson, *Making the American Team: Sport, Culture, and the Olympic Experience* (Urbana and Chicago: University of Illinois Press, 1998), 38.

⁸⁰ Clara Phillips, “Greek Games in San Quentin,” *The Bulletin*, Feb 1933, 9, CASL Government Publications.

⁸¹ *Ibid.*

It is also significant that women's Physical Culture class engaged primarily in non-competitive activities, such as dance or gymnastics, while the much more male gendered activities of competitive sport – such as baseball – were also fun, but were not the principal activity for women. Indeed, some of the athletic games permitted at Tehachapi during the Second World War included tennis and shuffleboard, hardly the bracing activities of baseball, football, or boxing that men enjoyed.⁸² Nevertheless, women at San Quentin did play baseball on pretty days, and enjoyed it a lot. Phillips even suggested that the cheering fans got as much exercise as the base runners, from all of their jumping and cheering. "The women play this game well, and the teams are so evenly matched that the event is always a time of wild excitement...." Women (especially white women), according to dominant white-raced gender conventions, typically were only to participate in non-competitive sports. Indeed, there was a long belief that white women, especially, ought to only participate in sports that maintained an emphasis on feminine moral purity, rather than competitiveness.⁸³ But Phillips made clear that they, too, thrilled at competitive games, but unfortunately, these were played only occasionally. Nevertheless, Phillips continued,

All this brings life and color into what would otherwise be a drab existence. Through these exercises, we keep our strength and health in the midst of cramping surroundings, and preserve that 'salt of youth' which has been found a blessing to 'justices, and doctors and churchmen,' as well as to imprisoned women.

⁸² See the Jan 7 1944 testimony of Elvira Clift, Tehachapi Sewing Room Warder, Volume XI: Witnesses Before the Governor's Committee on Investigation of the California Institution for Women at Tehachapi, CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:966.

⁸³ Dyreson, *Making the American Team*, 110.

Through exercise, which always tends to put the mind into a clearer state, and stimulate it to function more brightly, do we strengthen and add to our capital of virtues, and the aptitudes we have received. There is no better insurance against the advance of years than a regimen of regular exercise, resorted to conscientiously every day.⁸⁴

Phillips' spoke very well to the new forms of care of the self, the belief in mental clarity drawing from physical discipline and bodily training. She spoke to the desire to stay "young" in a place where time and life ebbed away – especially relevant considering the gendered imperatives for women to appear youthful.

The San Quentin Physical Culture class was more than a “fun” pastime, it was also a way to train prisoners in new "cultural" forms of citizenship – healthy, vibrant, flushed with victory or defeat, paying allegiance to rules and to authority figures, and structured by gender conventions. As always, racial difference was present, but silenced. Phillips wrote about the meanings of gender and exercise for white women, while leaving women of color deep in the shadows.

In Texas, at the Goree Farm, “white and colored” women played sports on racially segregated fields. One photo in the 11th Annual Prison Rodeo Program shows a group of black women in the midst of a soft ball game. It seems as if competitive athletics, like hard labor, were permissible for black women, and discouraged for whites. Where Mexican women prisoners and athletes (2 percent of the Goree population in 1941) stood in this race-gender system is difficult to know.⁸⁵

⁸⁴ Phillips, "Greek Games in San Quentin," *The Bulletin*, Feb 1933, 9.

⁸⁵ *Official Souvenir Program for the Eleventh Annual Prison Rodeo*, 1941, 44. TSLAC, Box 1998/038-404, Folder “Prison Rodeo Program, 1941.”

Dancing at the Goree Farm

Women prisoners in Texas also had athletic programs, though they were less developed in any official capacity than even the Physical Culture class for women at San Quentin, or even later at Tehachapi.⁸⁶ Goree did offer some informal opportunities for women to participate in sports, such as softball, and there were two teams organized for play. The women at Goree Farm also went swimming on a few occasions.⁸⁷

More common than organized athletics, and far better publicized, were periodic “Dance Nights” held at Goree Farm. The Goree dances were the closest that women came to having an organized athletic program, as a pleasurable engagement of bodies, a privilege and discipline that was both entertaining and fun. When men had baseball games or boxing matches to commemorate national holidays (the 4th of July, Juneteenth, Washington’s birthday), women at Goree danced.⁸⁸ Thus the engagement of male bodies in competitive and sometimes bloody sport signified a masculine public sphere and national celebration, conflating maleness with sports, the public, and the nation itself; conversely, women’s leisure celebrations took place inside, in a version of the private, sexual, domestic sphere.⁸⁹

⁸⁶ Tehachapi’s athletics program was modest. Like the Goree Farm, they had occasional dances, but inmates also told officials that they wanted a tennis court and a baseball diamond. Volume XI: Witnesses Before the Governor's Committee on Investigation of the California Institution for Women at Tehachapi, CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:966.

⁸⁷ *Thirty Minutes Behind the Walls*, Program 21. Aug 10 1938.

⁸⁸ See *The Echo*, August 1935, Vol 7 No 10, p1 col 2, p2 col 1 for a description of the 4th of July dance.

⁸⁹ Despite using a binary opposition between public and private spheres to understand the gendered performances of sport versus dance in prison, there are clearly highly erotic components of masculine sports, too. See especially, Allan Guttman, *The Erotic in Sports* (New York: Columbia University Press, 1996). Also, Norbert Elias, “Introduction” in Elias and Eric Dunning, *The Quest for Excitement: Sport and Leisure in the Civilizing Process* (Oxford, UK: Basil Blackwell, 1986).

Nearly all the women at Goree enjoyed the dances for the change of pace they offered, the respite from work and chance to listen to the Rhythmic Stringsters put on a special performance. When asked if she enjoyed the dances, Lovie Blackerby responded "I'm having a grand time—all of us are! These dances are the real thing to us, and some of us just live from one to the other almost!"⁹⁰ The pleasure of dancing made Blackerby look forward to the next dance, the next month, and provided a temporality of punishment that was different from her daily labors. This was time consuming and checked off another month of the calendar, and it was stress-relieving from the burdens of incarceration. According to Nigel Thrift and A. Radley, dance, like other forms of play, can be used to conjure "other worlds" into existence, worlds that are more real for participants than the painful one they are forced to experience. This bodily activity – self-directed, and claimed for pleasure rather than labor – could be a process whereby prisoners of different genders, sexes, and races, could claim their bodies and enact their lives, if only temporarily, when the liminal space of the dance allowed transgression of some, but not all, categories of power and difference.⁹¹

First and foremost, Goree dances both recreated and subverted gender norms. In this homosocial world, who, we might wonder, danced with whom? And who led, when two women danced together? In this all-female environment, it seems that it was quite literally whoever wore the pants.

⁹⁰ *Thirty Minutes Behind the Walls*, Program 21. Aug 10 1938.

⁹¹ Nigel Thrift, "The Still Point: Resistance, Expressive Embodiment, and Dance," in Steve Pile and Michael Keith, eds., *Geographies of Resistance* (London: Routledge, 1997), 124-151, esp.147.

Clothing proved to be a key feature of gender differentiation at Goree, and inmates in drag were immensely popular at the dances. Two women writers described the 1935 July 4th dance at Goree in *The Echo*, informing readers that “[p]art of the ladies were dressed as men,” and served “as escorts to the remainder” of the ladies. Blending the genres of gossip columnist and society reporter (as most inmate writers did, in one form or another), they wrote: “Dot dressed handsomely as a Gigolo, [and] seemed to be the prize that was sought by all of the lady-fairs(sic), however, she had nothing for them but a cold shoulder, she was more interested in finding a cool place to rest her weary bones. 'Pee -Wee' was one of the main attractions, with all the others enjoying the event immensely.” The writers continued, “According to their report, some danced until they were all but 'out on their feet,' and resorted to staying in the building the next day to recuperate.”⁹²

In a special *Thirty Minutes Behind the Walls* radio interview held at a different Goree dance, Announcer Nelson Olmstead was surprised to see several women wearing trousers rather than skirts. Olmstead said to Fannie Burnett, “Listen, I see you're wearing trousers—in fact, I notice a number of the girls wearing them. Is there any special reason for this?” Burnett responded, somewhat shyly, “No suh—no special reason. Ah just likes to be different, I guess. Jus' makes the dance seem mo' real.” Olmstead asked “Are you enjoying the dance tonight?” Burnett replied, “Yes, suh! Ah sho' am. I always enjoys these dances!”⁹³

⁹² *The Echo*, August 1935, Vol 7 No 10, p1 col 2, p2 col 1, TSLAC microfilm Reel 1 (June 1933-December 1948).

⁹³ *Thirty Minutes Behind the Walls*, Program 21. Aug 10, 1938.

For Fannie Burnett, and presumably for her partners throughout the evening, gender difference was expressed in the erotically-laden atmosphere of the dance through performances of masculinity and femininity. Wearing trousers and the performance of sexual difference through bodily contact and physical motion made the dance *more real*, and more pleasurable. Dot and Pee-Wee were besieged with partners for the evening, but in order to maintain the demure nature of the newspaper's report, the handsomely dressed "Gigolo" offered nothing more sexual than a cold shoulder to his suitors.

Though all the "girls" said that they had a wonderful time at the dance, and thus verified gendered norms of pleasure in dance (if in an admittedly unconventional way), Reba Nawlin confounded Nelson Olmstead's gendered expectations when she told him that she'd much rather compete in the Rodeo than dance at Goree. Indeed, Nawlin had been a professional bronc rider before she went to prison. When asked if she'd rather dance or be in a rodeo, she gave an emphatic "I'll take the rodeo every time!"⁹⁴

Though gender identities were both demonstrably destabilized and confirmed in Goree dances, racial categories in the Goree dances were enforced around a black-white binary. Prisoners at the dances were segregated by race, with white women on one side of the auditorium, and Negroes on the other. No mention was made of where Mexican prisoners stood in this Manichean world. When asked if they always administered the dances in this way, dividing the space of the room racially, Matron M.V. Heath explained, "Yes, that way, we're able to give more dances. And that's what the girls

⁹⁴ *Thirty Minutes Behind the Walls*, Program 21. Aug 10, 1938.

want. We haven't another auditorium—and if they had to alternate, they wouldn't get to dance as often as they do.”⁹⁵

While it was permissible for women in drag to dance with women, according to Matron Heath, the spatial crossing of racial barriers was unthinkable. To this prison official's imagination, there was no alternative other than spatial separation. Thus racial intermingling was more threatening than that of same-race, homoerotic contact among women prisoners.⁹⁶ Perhaps it so for that very reason – black and white prisoners could not dance together, for fear that white women might dance with black “male” prisoners, even in drag.⁹⁷

⁹⁵ *Thirty Minutes Behind the Walls*, Program 21. Aug 10, 1938. The songs played at the dance, were listed in the transcription from *Thirty Minutes Behind the Walls* as follows:

Steel Guitar Rag: White Girls
Nobody's Sweetheart: White Girls
Coney Island Washboard: Negro Girls
Darktown Strutters' Ball: Negro Girls
Copenhagen: White Girls
You Can't Stop Me from Dreaming: White Girls (Patsy on Vocal)
Kansas City Kitty: Negro Girls
St. Louis Blues: Negro Girls (Hattie on Vocal)
Darkness on the Delta: White Girls
The Old Apple Tree: White Girls (Roe on Vocal)
Shine: Negro Girls
Tiger Rag: Negro Girls
Bugle Call Rag: White Girls
Bully of the Town: White Girls (Request of Mrs. Heath)

Perhaps the raced notation of “White Girls” and “Negro Girls” indicated that some songs were requested and selected by groups of white or black prisoners; or, perhaps, it indicated which singers performed with the Rhythmic Stringsters, the entertainers for the evening. It is difficult to know with absolute certainty.

⁹⁶ Estelle B. Freedman notes that fears of interracial lesbian sex prompted the racial segregation of women prisoners in New York's Bedford Hills prison. While the institution had previously had been racially integrated, in accordance with the Warden's principles on racial equality, a 1915 legislative investigation found this to be a serious problem. But more than racial antagonism, of which Freedman found little evidence, legislators' main concern was that black and white women were having sex with each other. Freedman, *Their Sisters' Keepers: Women's Prison Reform in America, 1830—1930* (Ann Arbor: University of Michigan Press, 1984), 139-40.

⁹⁷ See Regina G. Kunzel, "Situating Sex: Prison Sexual Culture in the Mid-Twentieth-Century United States," *GLQ*, Vol. 8, No. 3, (2002): 293-270; Estelle B. Freedman, "The Prison Lesbian: Race, Class, and the Construction of the Aggressive Female Homosexual, 1915-1965," *Feminist Studies*, Vol. 22 No.

Juneteenth and the 4th of July: The Festive State and Celebration of the Raced Nation

The Texas State Prison System offered an instructive couplet in its celebrations of the festive state.⁹⁸ Inmates' years were punctuated by annual holidays and celebrations, such as Christmas, the New Year's Eve Party at San Quentin, Washington's Birthday, the Fourth of July, and Juneteenth.⁹⁹ While the celebration of either the 4th of July or Juneteenth in at Huntsville are remarkable and merit individual consideration, taken together, these raced celebrations are highly instructive in the creation of the popular culture of punishment. I should also note that though descriptions are much thinner for California than they are for Texas, there were frequent boxing matches at San Quentin on state and national holidays, as other celebrations of competitive masculinity, sports and leisure, and national pride.

Juneteenth and the 4th of July each followed a parallel structure. Celebrations began with music and entertainment by male and female inmate performers, which were followed by the "main attraction" of masculine sporting events: often boxing, and

2 (Summer 1996). Kunzel describes numerous mid-twentieth-century prison authors who wrote about interracial lesbian relationships in prisons, and in which white women actively sought out black sexual partners. Contemporary writers rationalized white women's desire for black partners by explaining that white women saw black women as masculine, and therefore as worthwhile sex partners. Estelle B. Freedman writes "In this interpretation, white women were not really lesbians, for they were attracted to men, for whom Black women temporarily substituted." Cited in Kunzel, 262. It is highly likely that Goree Matron M. V. Heath was familiar with this literature, and the cultural forms it expressed, and thus even more firmly justified racial segregation for women in this sexualized atmosphere. Little is said by any of these authors, however, about the black women's feeling and desires in the matter.

⁹⁸ David M. Guss, *The Festive State: Race, Ethnicity and Nationalism as Cultural Performance* (Berkeley: University of California Press, 2000).

⁹⁹ See Dipesh Chakrabarty "Marx After Marxism: History, Subalternity, and Difference," in *Marxism Beyond Marxism*, Saree Makdisi et al, eds. (New York: Routledge, 1996), 55—70, on the role of holidays off of work as central to the creation of the rest of the working year – that is, work time – in the creation of a hegemonic capitalist calendar and time-reckoning system.

always baseball. Secondly, there was their temporal proximity: a mere two weeks separated the Juneteenth and Fourth of July celebrations. Further, each was held in the same space: the Huntsville Prison Stadium. Paying guests came to enjoy each event, and the money they spent, as in the Rodeo, would contribute to the Inmate Welfare Fund. The fundamental difference between Juneteenth and the 4th of July was, of course, based around the meanings of race that were re-inscribed through the events. In these widely publicized and attended festivities, blackness, whiteness, and Mexicanness were reproduced as positions of structural denigration or privilege within the ritual context of a humanely corrective state.

Historian S. W. Pope suggests that the meshing of patriotic celebrations with sporting events blended athleticism and muscular masculinity into “conspicuous national rituals” which performed a “dramatization of the values and beliefs of American nationalism.”¹⁰⁰ Masculinity figured centrally in this performance of the raced national imaginary, as women’s singing was marginalized as a mere prelude to the “main attraction” of sports. While Pope argues that such events were intended to eclipse class, ethnic, racial, and political differences into a national political unity, in the Texas Prison System, sporting events on Juneteenth and the Fourth of July explicitly subordinated ethnoracial Mexicans and African Americans in the national imagined community. While baseball, as “America’s game,” had provided a ground for white

¹⁰⁰ S. W. Pope, *Patriotic Games: Sporting Traditions in the American Republic* (New York: and Oxford: Oxford University Press, 1997), 17.

masculine identity formation that superseded European ethnic difference, these athletic and entertaining penal spectacles produced racial exclusion.¹⁰¹

The very perversity of a Juneteenth celebration behind prison walls bears note. Here was a celebration of the emancipation of African Americans from slavery within an explicitly racist location of forced labor and unfreedom. While many important differences clearly exist between the political economy of slavery and those of a capitalist system using incarceration and race as tools of social control, the parallels of forced agricultural labor remained powerful, especially in Texas. Furthermore, the Texas Prison System's spatial and financial organization, deeply rooted in racialized agricultural production, bespoke a fiscal conservatism and state formation directly descended from a slave economy. The 4th of July and Juneteenth celebrations, it would seem, had a great deal in common with holiday revelry on plantations of the antebellum South.¹⁰²

¹⁰¹ For a sampling of this broad literature, consider Stephen A. Reiss, ed., *Sports and the American Jew* (Syracuse: Syracuse University Press, 1998), S. W. Pope, *Patriotic Games*; and S. W. Pope, ed, *The New American Sport History: Recent Approaches and Perspectives* (Urbana: University of Illinois Press, 1997). Also, David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class* (New York: Verso, 1993), Noel Ignatiev, *How the Irish Became White* (New York: Routledge, 1995).

¹⁰² Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Vintage: 1976), 566—584. Genovese suggests that plantation revelry served as a safety valve that had a “conservative political bias,” 584. It certainly was planned as a safety valve in Texas and California prisons, but unlike Genovese, I do not pose an evaluative judgment that prisoners who participated maintained the conservative political bias he describes. Nor do I ascribe to the implicit position that treatment without “safety valves,” would more likely breed radical politics, or that overt rebelliousness is necessarily an effective strategy against overwhelming violence.

4th of July

The Fourth of July was, ostensibly, a celebration for all Americans. But as David Waldstreicher has made clear, it has long been a ritual that defined citizenship through linked processes of internal cohesion as well as forced exclusion.¹⁰³ Juneteenth was a form of “positive” exclusion. That is, Juneteenth gave black Texans a structurally parallel and temporally proximate event that legitimized the practice of racial segregation, expressed through masculine public performance. The Fourth of July did much the same thing, even within its own parameters as a symbolic ritual, and in which white raced athletics played a prominent role.

African Americans weren’t simply excluded from the Fourth of July at Huntsville, locked in their cells and told not to come out. No, they did participate, but in a clearly subordinate fashion. The morning events in the 1935 event may serve as a not-too-subtle case in point. There was to be a show of inmate performers. Two of them, in fact – one, at 8:30 am, for white prisoners, and a second afterward, for “colored” inmates. The show itself consisted of numerous acts of singing and dancing, and comedians, including inmate comedian Phil Etie in blackface, who sang, danced, and played guitar and harmonica. There were magicians and mind readers, who reportedly held the audience in silent rapture. Other performers played “mountain music,” and Leandro Saenz played songs described alternatively in the prison newspaper as “Mexican” – a raced category, and “Spanish” – a European white

¹⁰³ David Waldstreicher, *In the Midst of Perpetual Fetes: the Making of American Nationalism, 1776-1820* (Chapel Hill: University of North Carolina Press, 1997).

ethnicity.¹⁰⁴ Such alternating language in the prison newspaper signaled Saenz' ethnoracial ambiguity as a "Mexican" prisoner, somewhere between the positions of whiteness and blackness produced in the Texas prison. In either case, Saenz was signaled as performing ethnoracial difference rooted in a different national space than that of a normative "America."

Leaving aside the racial love and theft of Phil Etie's blackface performance, racial hierarchy in the morning's event was performed temporally, privileging whites by putting "their" show first. This was a different strategy than the spatial segregation used to keep black and white women prisoners from dancing with each other, as at the Goree Farm dances. This could have been prompted by the limited numbers of seats in the auditorium. It is difficult to know with any certainty. But black prisoners were literally given short shrift in this racial hierarchy on the 4th of July: while white inmates enjoyed a stirring morning's first performance, the second show of the morning, "for the colored [inmates,] was cut short on account of the lengthy program."¹⁰⁵

The issue is not that this show was the end-all, be-all of black prisoners' existence. The issue is that it was precisely this sort of persistent subordination based solely on race, the consistent degradation that black prisoners knew time and again and at every level of their experience in the prison system – from labor assignment, opportunities for rehabilitation and education, brutality of punishment, and just getting to see a show on a "national" holiday.

¹⁰⁴ *The Echo*, August 1935, Vol 7 No 10, p12, col 1-4, TSLAC microfilm Reel 1 (June 1933- December 1948).

¹⁰⁵ *Ibid.*

Later in the day, after the performances of song and dance were over, came the athletic centerpieces of the Fourth of July. Boxing was a central event. It conjoined muscular masculinity, violence, fear and aggression, as well as a working class aesthetic of powerful performance.¹⁰⁶ There were five fights described on the 1935 Fourth of July fight card. The first was between “Big Red” Wells and Buddy Compton, heavyweights whose racial identities were unmarked, thus suggesting that they were white. As in the rest of the country, no boxing matches between whites and non-whites would be permitted, not since Jack Johnson pummeled Jim Jeffries in 1910 (also on the 4th of July). Nor would black and white boxers meet again in the public eye until 1938, when Joe Louis fought Max Schmelling, and Americans decided that they would rather see a African American as world champion than a Nazi.

The second fight was between Don "Kid" Hamic and Ed "One Round" Evers. Again, no race was mentioned for these boxers, implying that they were white inmates. Hamic knocked Evers out and broke two of his ribs in a fight described by inmate writers as having a lot of "class."¹⁰⁷ Here, *class* signified neither wealth nor relations to

¹⁰⁶ On boxing history as a working-class, masculine practice in the antebellum Northeast, see Elliot J. Gorn, “The Meanings of Prizefighting,” in *The New American Sport History: Recent Approaches and Perspectives*, S. W. Pope, ed. (Urbana and Chicago: University of Illinois Press, 1997), 225-250. Bederman’s *Manliness and Civilization*, 1-44, also profitably examines boxing history to explicate changes in how whiteness and blackness, and how definitions manhood changed (for the middle classes) in the Progressive Era. For studies of Jewish experiences in boxing in the early twentieth century (also in the Northeast) see Peter Levine, “‘Oy Such a Fighter!’ Boxing and the American Jewish Experience,” in *The New American Sport History*, 251-283; Steven A Reiss, “Tough Jews: The Jewish American Boxing Experience” in *Sports and the American Jew*, ed. Steven A. Reiss (Syracuse: Syracuse University Press, 1998), 60-104.

¹⁰⁷ The following descriptions come from *The Echo*, August 1935, Vol 7 No 10, p 10 col 1,2, 3, TSLAC microfilm Reel 1 (June 1933- December 1948).

the means of production, but masculine style and panache, intelligent fighting that appealed to the *Echo* writer's aficionado eye.

Unlike the previously mentioned fights for racially unmarked (white) prisoners, the fourth fight on the card was explicitly for racialized inmates: Tony Garza, listed as Mexican, beat Mike Gabriel, described as "Syrian," after three rounds. The newspaper reported that "Blood streamed during the last round. Both men refused to quit until the fight was finished." The flowing blood was a show of stoic manhood that appealed across racial difference – violent performance through pain was significant of a certainly working-class manhood, as the "Mexican" and "Syrian" boxers met in the ring. Yet in Texas, it was only permissible for "Mexican" blood to mix with that of the comparably raced "Syrian," but not with that of a "white" boxer.¹⁰⁸

The last fight was between black boxers: "Lightening" Perry and Herman Hilliard. *Echo* writers explained, "Perry has ruled as King Pin of the entire colored realm in the walls, having beaten them all until Hilliard was imported to take his measure." Hilliard was supposedly promised a job at Huntsville if he could beat Perry,

¹⁰⁸ The description of Mike Gabriel as "Syrian" in the newspaper is fascinating, and demands further research on how he was constituted as a raced inmate by the prison bureaucracy. By no means was "Syrian" a common ethnoracial category in the Texas prison. I am forced to wonder if Gabriel thought of himself and was generally regarded as white in the highly racialized prison context, but reporters and fight planners felt obligated to mark him as "other" for the purposes of racial decorum. If this were the case, it shows how slippage in firm racial categories could occur at Huntsville, but needed to be papered over for the sake of maintaining the *appearance* of strict racial segregation. This does not indicate, however, that interracial boxing would signify racial parity or "progress" in race relations, however. From Jack Johnson and Jim Jeffries in 1910 to Sylvester Stallone and Carl Weathers in the 1976 film *Rocky*, (more so with Mr. T in *Rocky III*) differently raced boxers pounding each other could, and frequently did, serve as stand-ins to perform racial conflict in American culture.

which he did, "using extremely clever tactics" and landing a knock out uppercut "directly on the 'button'."¹⁰⁹

As a highly structured sport, with strict time limits and in a delineated space, obedience to rules and the referee's authority, and with permissible and prohibited moves, boxing showcased a self-disciplined masculine aggression. Sports sociologists might see this self-discipline through sport, and its public performance, very much within an expanded understanding of penal discipline as emanating from panoptic centers, as described by Michel Foucault in *Discipline in Punish*. As mentioned at the outset of this chapter, however, in contrast to this model, I understand self-discipline through sports as allowing an avenue through which prisoners could access alternative discourses – of masculinity, style, skill, and community, among others – that came through civil society and mass culture – rather than from the carceral state.

The presence of “racial others” in the ring didn't make the 4th of July any less of a national festival that privileged whiteness. Rather, through the spectator's gaze, racialized and seemingly unmarked “white” boxers produced a systematic ethnoracial hierarchy predicated on tripartite difference.¹¹⁰ Boxing matches reaffirmed distinct horizontal levels of equality *within* raced groups, (whites with whites, Mexicans with, in this case, Syrians, blacks with blacks), while simultaneously producing a vertical racial hierarchy.

¹⁰⁹ *The Echo*, August 1935, Vol 7 No 10, p 10 col 1,2, 3, TSLAC microfilm Reel 1 (June 1933- December 1948).

¹¹⁰ On racism as ascribed within modes of visual perception, see Judith Butler, "Endangered/Endangering: Schematic Racism and White Paranoia" in *Reading Rodney King, Reading Urban Uprising*, ed. Robert Gooding-Williams (New York: Routledge, 1993), 15—22.

The violent performances of masculinity, expressed by and through a clearly working class sport (though increasingly “colonized” by middle class fans¹¹¹), brought differently raced prisoners together on the common ground of controlled, but still quite violent masculinity. Though black and white prisoners could not face each other as equals in the ring (for the clear white terror that they might lose, again), male prisoners of all races could and did watch each other fight, appreciating “clever” tactics, well-placed blows, and the ability to persist through pain. That, surely, was something they all could identify with. In his research on prison culture of the early 1930s, Donald Clemmer found that the prisoners he researched particularly enjoyed boxing, because “the desire for combat and the physical courage and stamina it requires are qualities held in high esteem” by most if not all inmates.¹¹²

Despite the importance of boxing, baseball remained the main attraction of July Fourth celebrations, and this was an event from which black inmates were explicitly excluded. As described above, the Huntsville Tigers frequently played against regional corporate-sponsored teams, as against the Brenham Sun Oilers on the 4th in 1935.¹¹³ These baseball games were reported in the Huntsville *Echo* in loving, if cantankerous detail, as heroic players with manly nicknames like “Army” Armstrong and “Big George” Larson “fanned” their opponents and batted for outstanding records. Each

¹¹¹ Levine, “Oy Such a Fighter!”; Reiss, “Tough Jews”, 60-104.

¹¹² Clemmer, *The Prison Community*, 218.

¹¹³ *Thirty Minutes Behind the Walls*, Program 66. June 21 1939. On company-sponsored baseball as part of capitalist paternalism and anti-union practice in southern culture, see Jacquelyn Dowd Hall, et al, *Like a Family*; Toby Moore, “Dismantling the South’s Cotton Mill Village System,” in Philip Scranton, *The Second Wave: Southern Industrialization from the 1940s to the 1970s* (Athens, GA: University of Georgia Press, 2001), 114-145.

event, and its reporting, was a crucial struggle for masculinity and honor, and especially in symbolically significant games on National holidays. Because black baseball players were explicitly excluded from “America’s Game” the centerpiece of the 4th of July celebration, this national ritual performed an American nation predicated on the subordinate inclusion of raced bodies and the exclusion of black bodies, all of which centered on athletic masculinity.

Later Fourth of July celebrations followed a similar structure. After many of the performers featured on *Thirty Minutes Behind the Walls* sang, there would be “[f]ifteen rounds of class some boxing, topped off by the double-header between the Conroe Oilers and the Prison Tigers—and, this game should be a honey.” Like Juneteenth, the stadium gates would open to the public at 1pm.¹¹⁴

In an August write-up of the festivities, white inmate reporters had nothing but the best words about the Fourth of July: “All in all, the day was a big success. It brought out everything it is intended to bring out. Just a bunch of big, overgrown, happy kids, jollyng around all day, strolling from one lemonade barrel to another, rushing to and from entertainments ***extending good fellowship to one and all. (without the fireworks).”¹¹⁵ Black subordination in the events, and the indeterminate status of Mexican prisoners was not discussed by this inmate writer, and belied how far good fellowship actually extended. For him, the day was a celebration of white Americanness, figured through working class masculinity and all the lemonade he could

¹¹⁴ *Thirty Minutes Behind the Walls*, Program 66. June 21 1939; Program 120, July 3, 1940.

¹¹⁵ *The Echo*, August 1935, Vol 7 No 10, p1 col 2-3, p2 col 2, TSLAC microfilm Reel 1 (June 1933-December 1948).

drink. But in his description, inmates and spectators were still rendered childlike (as big, overgrown kids) at the knee of the paternalist, caregiving state. The celebration said as much about how the rest of the year was supposed to be structured – around work, plain food and drink – as it did celebrate the race and gender bases of citizenship and participation in the festivities of the nation and the popular culture of punishment.

Juneteenth

Gates at the Huntsville Prison Stadium opened – inward – at 1 PM for visitors to arrive on Juneteenth and for the entertainment to begin. From existing reports, thousands of viewers, mostly black, came to the festivities. Writers for *the Echo* wrote that "a greater part of the colored population of this part of Texas... [was] here in all their glory," presumably a reference to the finery worn on this special day of celebration. They also commented that both the Prison Black Tigers and the Riverside Hardhitters "had plenty of rooters among the fairer sex in the grandstands."¹¹⁶ Commentary on the presence of women in the audience was always significant, when prisoners could know themselves as men in front of women, rather than performing masculinity in and among other men.¹¹⁷

¹¹⁶ *The Echo*, Oct 1935, Vol 7 No 12, p10, col 4, TSLAC microfilm Reel 1 (June 1933- December 1948). Rob Ruck also notes that many black baseball fans dressed very well, to see and be seen, at Negro League games. *Sandlot Seasons: Sport in Black Pittsburgh* (Urbana: University of Illinois Press, 1987).

¹¹⁷ Black prisoners in California were also interested in having a Juneteenth celebration at Folsom. Robert W. White wrote a letter to Warden Plummer about having a Juneteenth celebration, "known all over the country as 'Negro Day.'" White explained that his first choice for a celebration would feature a live show (in which he could perform, as he'd been in other performances at Folsom) but he also said that perhaps if Warden Plummer would wire Hollywood, he would see that they "have a lot of negro movies on the shelf [that] they would be glad to let you have with no price whatsoever: there are lots of Shorts, String Colored Bands...." He was particularly interested in the Joe Louis movie "Spirit of Youth." "This will

Though Juneteenth created a deliberately and explicitly black space and event in the prison, the public was informed that there would be a special section of the stands reserved for white patrons, from which to watch the festivities as well as the audience.¹¹⁸ Thus a white space was delineated, that Texans defined as white could participate as spectators, perhaps voyeurs, in this celebration, while maintaining spatial, and racial, difference.

Richard L. Lewis, performing in character as “The Deacon Smoky Joe,” and described in greater detail in the chapter above, was the comedic inmate Master of Ceremonies for Juneteenth. Festivities began with a selection of music by black inmates – the 1939 event featured blues by Hattie Ellis, song and piano from E. S. Shumake, and the “Southland Songsters” quartette sang “Dixieland Spirituals.” Comedy numbers featured the clown “Fat Head” Jones, drawing from the still quite active minstrel tradition, and the “popular novelty song team” of inmates Simon Toldon and Ocie Lee Lewis. Women inmate singers from Goree provided entertainment “to the delight of the good-natured crowd of fans. Hattie Ellis, popular radio songstress was easily the high-light of the added attractions with her blues singing.”¹¹⁹

come as a kind of suprise (sic) to you, but as I told you before you would have to be a negro to feel how it feels. I know what you must think as you read this: But if you wish to discuss it, I am at your call. I hope you may really do this. You wont have to pay a thing. an the colored papers in this state will have you in all glory. (signed) Robert ‘Cannibal’ White. Box 23921.” Folsom Inmate Case Files, 23921. CSA, F3745:575.

¹¹⁸ *Thirty Minutes Behind the Walls*, Program 64, June 7 1939.

¹¹⁹ *Thirty Minutes Behind the Walls*, Program 64, June 7 1939; *The Echo*, July-August 1939 Vol 11 No 7, p8 col 1, TSLAC microfilm Reel 1 (June 1933- December 1948).

"But the main attraction" explained Mr. S. E. Barnett, was "a ball game between the Prison Black Tigers and the Riverside Hardhitters."¹²⁰

In this particular game, an annual match-up that developed something of a rivalry, the Black Tigers beat the Riverside Hard-Hitters 7-6 in 11 innings, "before the largest crowd ever to witness a holiday ball game in Tiger Stadium." "Fast Black" Toldon pitched eight innings, and, according to *Echo* writers, his "freak delivery and burning fast ball held the visitors well in hand through most of the early innings." "Fast Black was also handy with the willow, getting 2 [hits] for five [at-bats]."¹²¹ Though it rained for most of the game, this neither stopped play nor dampened spirits, as it ordinarily would have in "regular" season, white baseball games.¹²²

Fast Black Toldon was repeatedly the centerpiece of the stories, and must have been quite a showman. Recall the performance he gave on *Thirty Minutes Behind the Walls*, in which he and "the Deacon" performed a proud, black masculinity over the radio. Through his play on the mound, at bat, and, as part of a "popular novelty song team," Toldon made himself into a celebrity in the Juneteenth context. His skill as a performer, and previous experience as a professional baseball player with the Odessa Black Oilers before his arrest, made him into a very visible prisoner, and this was rare indeed. His masculinity as a pitcher and athlete made him acceptable, and even admirable, to white newspaper sportswriters – but not acceptable enough to play on the

¹²⁰ *Thirty Minutes Behind the Walls*, Program 64, June 7 1939.

¹²¹ *The Echo*, July-August 1939 Vol 11 No 7, p8 col 1, TSLAC microfilm Reel 1 (June 1933- December 1948).

¹²² Juneteenth, it seems, was too important an event to be called off because of weather. This was certainly because of its singularity and symbolic importance for black Texans, as opposed to the more common occurrence of white baseball games.

(white) Prison Tigers. His personality as an “entertainer” who sang novelty numbers was unthreatening enough for prison authorities to allow him access to the stage. Toldon performed a permissible black masculinity that was desirable to prison authorities, and this was the ground that allowed him voice and presence at Juneteenth.

The following year’s celebration followed a similar pattern: The first hour of the celebration would feature “the Prison’s own colored radio stars...Vera Jenkins, stellar blues singer and dancer; E. S. Shumake and his piano; A. B. Johnson, the harmonica wizard; Elyord Bailey and Adrian Kenney, the saxophone twins; the Cotton Picker’s Glee Club; the colored girls from Goree; those two laugh-getting clowns, Fathead and Soupbone; and the Master of Ceremonies will be Deacon Smoky Joe Lewis.”¹²³ This year, rather than emphasizing that Richard L. Lewis would perform the *character* of the Deacon Smoky Joe, the blackface character’s personae fully eclipsed Lewis’s identity.

The Huntsville Prison Juneteenth became an important event for black Texans in Walker County. Writers (white men, certainly) for *The Echo* wrote “All in all Juneteenth this year is going to be a wonderful celebration, Huntsville will be the hub of Walker County Juneteenth celebrations, and Prison Stadium will be the hub of Huntsville as thousands of colored folks throng to see the big annual affair which the prisoners stage each Juneteenth.”¹²⁴ Though the positionality of the writers, white inmates who were frequently bigots, means that their representation of Juneteenth must

¹²³ *Thirty Minutes Behind the Walls*, Program 117, June 12, 1940.

¹²⁴ *The Echo*, June 1940 Vol 12 No 6, p1, col 5, p7 col 4, TSLAC microfilm Reel 1 (June 1933-December 1948).

be taken critically, the information they conveyed is crucial for a more thorough understanding of how Juneteenth operated in the Texas Prison System and beyond.

Literally thousands of black Texans came together in the prison to celebrate Juneteenth. While the prison's Juneteenth celebration thus incorporated this celebration of black emancipation into itself, at the same time, black Texans in Walker County were shaping the prison system to their own will and needs. Where else could they find a venue that would seat thousands of people? Walker County Juneteenth had been celebrated in local churches, and in Sims Grove (purchased and re-named Emancipation Park in 1933 by the Band and Park Association).¹²⁵ In reality, the prison stadium may have been one of the very few locations that would allow this number of black Walker County residents to congregate, replete with seats, bleachers, and entertainment. Perhaps it was because this space was so heavily fortified, and already so very raced as black, that this Juneteenth celebration was allowed.

The Juneteenth celebration was thick with contradiction. While it literally brought thousands of African Americans into the prison as a celebratory space, Juneteenth was also a force that black prisoners exerted on the system that enslaved them, if only temporarily. Here was a day when the stands would be full of black faces with only a handful of whites in attendance (though getting their own section spatially separate from the black crowd). Black prisoners were helping to shape the prison according to their own needs and desires.

¹²⁵ "HUNTSVILLE, TX." The Handbook of Texas Online. <<http://www.tsha.utexas.edu/handbook/online/articles/view/HH/heh3.html>> [Accessed Thu Dec 12 11:31:08 US/Central 2002].

Here was an event precisely described by S. W. Pope – meshing patriotic events and sports with the legitimization of penal rule. Further, in having a male sporting match as Juneteenth's central event, Juneteenth and physical masculinity became nearly synonymous. Hattie Ellis's blues were explicitly located on the margins of the "Main attraction," as were the other singing and comic numbers. In this official and state sponsored event, music was to take a back seat to sport – and to a segregated version of the "national game" in particular. In other locations, such as on *Thirty Minutes Behind the Walls*, or for black prisoners working in the cotton or cane fields – music took center stage.

Doubtless, too, that black prisoners and viewers imparted their own messages into these events, and transformed it into part of an alternative, black public sphere. Juneteenth was a commitment that slavery would not return, despite prison walls and still-present racial injustice. Just as African Americans and workers of all races celebrated the Fourth (sometimes Fifth) of July in their own and oppositional ways, so too did black prisoners make Juneteenth their own – all the more because of its sedimented history of opposition to racial injustice.¹²⁶

Thus Juneteenth was both the absorption of black opposition into a more pliant prison system, as well as an expression of that opposition. The fortified walls of the prison system, well built and still better armed, continued this processes of containment and contest, of incarceration and freedom not yet gained.

¹²⁶ Waldstreicher, *In the Midst of Perpetual Fetes*.

Juneteenth and the Fourth of July presented a racial pairing of the nation. These presentations of National belonging and otherness figured racial difference, structured around whiteness and blackness, and officially minimizing the third term of Mexicaness because it did not fully fit in official discourse or celebrations (there was no Cinco de Mayo or September 16th celebration recorded anywhere in the records). Celebrations were structured around a presentation of muscular masculinity, where teams figured as nations at a reduced scale, and with men as representatives of those nations. In having two distinctly raced “celebrations,” African Americans were formally excluded from participation in the national celebration, with a separate but certainly not equal event for “their” pleasure and acknowledgement, a slight nod from a state authority that would increasingly make use of incarceration as a tool of racial control in the rest of the century. There were contradictions and contests, of course, and black and ethnic Mexican Texans, prisoners and spectators alike, made use of the cracks in the system for their own ends. But the subjectivities produced in the encounter, the feelings and experiences that people knew as they walked away from these events, told them that they must continue to fight in subtle and overt ways to claim their place in Texas, if that place was not to remain permanently behind Huntsville’s walls.

San Quentin’s “Little Olympics”

Despite the numerous games of baseball, the growing boxing, basketball, wrestling, and softball leagues at San Quentin, the high point of the San Quentin sports calendar came with the San Quentin Track and Field Day, also known as the “Little

Olympics.” The Little Olympics were in large measure the creation of San Francisco’s Olympic Club, an elite club of wealthy sportsmen founded in 1860.¹²⁷ In 1913 the Olympic Club began supporting this track and field day as a philanthropic venture to help inmates in something of a late Progressive-Era uplift activity for prison inmates. Warden James A. Johnson (popularly remembered as a prison reformer), was a member of the Olympic Club and certainly helped in gathering the financial support and idea of the Olympic Club’s sponsorship of the event.¹²⁸

Just as Texas’ Fourth of July and Juneteenth events promoted a celebration of the nation, the Little Olympics fell on September 9, the anniversary of California’s admission into the United States. And like Juneteenth and July Fourth, it signaled a tribute to the state and nation through a day off of work, spent in leisure and celebration. It was occasionally referred to as the “Admission Day” celebration, rather than the “Little Olympics,” when this state-based affiliation was to be stressed rather than as a tribute to its elite patrons.

Like other sporting events in New Deal era prisons, sportsmanship and fair play were keys to state pedagogy. Warden Clinton Duffy explained, "At first, it was

¹²⁷ See the Olympic Club’s homepage at http://www.olyclub.com/visitors/vis_home.asp. Many thanks to Bill Callan, the Olympic Club’s official historian, for allowing me access to their records.

¹²⁸ Kenneth Lamott, *Chronicles of San Quentin: The Biography of a Prison* (New York: David McKay Company, Inc, 1961), 205. I have yet to find what precisely motivated the Olympic Club to begin its sponsorship of the Little Olympics. However, there was an upswell of urban, elite social reform movements in the progressive era that strove to minimize urban tension and increase “Americanization” through a physical training and play movement. This was characterized by the new cults of masculinity embodied by Teddy Roosevelt and G. Stanley Hall, described by Gail Bederman in *Manliness and Civilization*. In *Making the American Team*, Mark Dyreson describes the growth of sporting ideology around the turn of the century as a bourgeois social control movement to craft a well-behaved “sporting republic.” See esp. 20-22, 187-193. S. W. Pope makes a similar claim regarding the uplift activities of sports clubs and Americanization advocates in his *Patriotic Games*. This was the social and historical context in which the Olympic Club began its sponsorship of San Quentin’s Little Olympics.

probably surprising to outsiders to learn that true sportsmanship exists in prison—that fair play in athletics is the rule rather than the exception. Sports play a major part in rehabilitation. Realizing that, I have increased athletic activities wherever possible." Duffy lauded the Olympic Club, as well as the inmate athletes and prison guards for their good work at the Track and Field Day. Thanks to them, the Field Meet "has won recognition all over the country as the outstanding prison athletic attraction."¹²⁹

As described at the outset of the chapter, inmates were divided into specific teams for sporting competition on the Track and Field day, as men's bodies were very much on display, scantily clad, muscled and flexing for viewers. The day began with a parade of featured athletes and entertainers, marching behind the banners of their shop teams or the events in which they competed. Thus, banners proclaiming "the Mill" or the "Shops" were carried by their respective team members; barefoot and semi-nude black, white, brown men in swimming trunks carried the banner reading "Wrestlers"; fully clothed men for the Tug O' War" (also multiracial); the Mill Team wore tank tops, shorts, and track shoes.¹³⁰ In the 1930 event, the "Mess Hall" team consisted of workers in the General Mess, Library, Hospital, Gardeners, Yard Men, Dental Department, Cell Tenders, Quarry, Cottages, Outside Gatekeepers, G.Q. Construction, Officer and Guard Mess and Barbers, and on the Waterfront. The "Shops" team consisted of workers in the Print Shop, Tailor Shop, Furniture Shop, Patch room, Laundry, Carpenter Shop,

¹²⁹ *Wall City News*, Aug 7, 1941, p. 1, CASL Govt Pubs P875.W3. Texas Rodeo planners would have disagreed.

¹³⁰ Numerous descriptions of the Little Olympics below draw from photographs collected in *The Little Olympics Scrap Book*, Vol. 1, 1933-1941 Inc., compiled by Jack C. Patrick, and housed in the Olympic Club Records, Lakeside Club, San Francisco, CA. The scrapbook is not paginated.

Paint Shop, Machine shop, Blacksmith Shop, Tin Shop, White Wash Crew, Scavenger Crew, New Road, General Construction, Shoe Shop, Plumbing Shop, and the Administration Building staff. The "Mill" consisted of people in the jute mill, still the largest single productive operation at San Quentin.¹³¹

Track and field events were among the main attractions at the Field Meet, including 1 and 2 mile runs, 100 yard dash, 220 yard dash, and the 440, 880, and 50 yard dash. There were also sack races, a relay race, an Old Man's race, a Centipede race, a lifer's race, and hurdles. There was also a 16 pound shot-put, a 56 pound weight, standing broad jump, running broad jump, standing and running high jump, Running Hop-step-jump, Pole vault, baseball distance throw, Fungo batting and a crawl race. Records were duly kept, listed, and broken each year.¹³² Prizes were donated to the winners – "entirely in the form of permitted merchandise," and ranged from "bags of peanuts to typewriters and fountain pens."¹³³

However, the tug o' war was the single most important events of the day. As historian Kenneth Lamott described, "The main event was the tug of war, on which more tobacco was wagered than on any other event of the prison year. The tug of war aroused such passion that old-time guards remember that sometimes it took as long as twenty minutes to pry a contestant's hands loose from the rosined rope."¹³⁴ Remaining images of the event are powerful. By the end of the 1930s and into the 1940s, black and white inmates competed on the same tug o' war teams, based on the shop or job they

¹³¹ *Wall City News*, Aug 16, 1930, p. 4, CASL Govt Pubs P875.W3.

¹³² *Ibid.*

¹³³ "All San Quentin Thrills as Field Meet Nears," no author, *The Bulletin*, July/Aug 1935, 28.

¹³⁴ Lamott, *Chronicles of San Quentin*, 205.

worked in. They also competed on a platform specially-built for the event. This was a long, wooden platform, elevated a few inches off the ground, with wooden rungs nailed in a few inches apart. The purpose of the platform was to keep teams out of the loose dirt, and ensure that they got the best traction and could not lose their footing.

Remaining photos of the event show men straining with all their might, laid out flat, trying to get as much purchase on the rope and with their feet as they could. One image shows what competitors looked like after the event: collapsed, arms splayed and legs akimbo, while other prisoners caringly massaged their hands.¹³⁵ I suspect that neither Lamott nor the guards he interviewed exaggerated about the length of time it took inmates to loosen their hands from the rope. But clearly, bags of peanuts were less important a part of the contest than the pride and bragging rights associated with victory, or the volumes of tobacco or contraband bet in the event. According to a caption accompanying a photo of inmates in the tug o' war, in the Olympic Club scrapbook, "More than \$10,000 is wagered on the outcome [of the tug o' war]; in candy and tobacco, that is."¹³⁶

In the 1940s, the Field Day's parade was a venue for national inclusion for prisoners, based in nationalist opposition to foreign and racial others. The parade was replete with floats advertising for war bonds, ridiculing the Nazis, etc. One float read "Buy 4 War Stamps a Day, Put the Japs Away." One such float combined the inmates' desire to participate in the war through their labor: it read "Keeping our Shops Working

¹³⁵ Numerous descriptions of the Little Olympics below draw from photographs collected in *The Little Olympics Scrap Book*, Vol. 1, 1933-1941 Inc. Not paginated.

¹³⁶ Jack C. Patrick, *The Little Olympics Scrap Book*, Vol. 1, 1933-1941 Inc.", no page number.

For Victory". This image, too, displayed some of the materials made in the San Quentin shops. Significantly, a photo of on one such float showed a black man standing and holding an American flag along with white co-workers and prisoners. This degree of wartime racial egalitarianism and liberalism, validated by Executive Order desegregating military industries (though ineffective in integrating Richmond's Kaiser Shipyards across the bay), may have taken place on Juneteenth in Texas, but would not have been found at Huntsville's Fourth of July.

In one of the earliest historical assessments of San Quentin's Little Olympics, Kenneth Lamott characterized the event as a "modern parallel to the Roman saturnalia, when slaves were treated like masters, [and] the usual prison rules were suspended" for inmate revelry.¹³⁷ His conception of the event as ritual inversion was perhaps apt, especially considering the ways in which transgressions on this singular occasion verified imposed order for the rest of the year. This was very much unlike the ordered presentations on Juneteenth and the Fourth of July in Texas, which showcased good order rather than inversion, transgression and play, but had more in common with the cross dressing of women dancers at the Goree Farm.¹³⁸

Perhaps most transgressive of the regular order was the proud display of "queens" in both the parade and in the musical song and dance numbers on a stage

¹³⁷ Lamott, *Chronicles of San Quentin*, 204-205.

¹³⁸ Source material is important here, and especially photographs contained in the Olympic Club scrapbooks. There were few written references to the number of men in drag, the floats, or other features of the day. If the images collected in the Olympic Club Scrapbooks did not exist, little primary material indicating the day's ritual inversions would be available. It is quite possible that there were other such transgressive inversions in Texas events, but if so, they remain hidden behind the dominant voices of the records.

especially built for the day. There were many, many displays of men in drag. These were not the athletes, though. For example, a well-dressed black man and "woman" were featured in a number of photographs in this scrapbook: he, in coat, tie, and hat; she, in a long dress. In another image the same couple pose: she stands coquettishly as he stands behind her, and appears to be smelling her cheek and neck. As photos progressed in documenting the day, the photographer seemed to have been taken with her performance (which seemed to have included a sort of strip tease and fan dance). In the last of a progression of images, she proudly stands in a bikini, displaying her beauty with the fan held at her legs.

Hers was only the most striking of the displays of performers in drag. Men in women's dress were a big feature of the day, and of dance and theatrical groups that complimented the sporting events. Some, such as the inmate described above, took their femininity seriously, and tried to look "beautiful," according to a feminized aesthetic of slender builds, hairlessness, made-up faces, and scanty clothing. Other men in drag were deliberately ridiculous, making no attempt to hide hairy or flabby bellies. One balding white man wore a grass skirt and bikini and had darkened his skin, doing a "Hawaiian" dance on stage as four musicians and two shirtless white men (wearing trousers and lei's) looked on and laughed.

This second performer made a mockery of both sexual and racial difference. He was clearly an obese, hairy, white man, who had blackened up and dressed in drag, which "playfully" underlined his whiteness and maleness. Nevertheless, this performance in race and gender was clearly desirable both to him and inmate onlookers

in eroticizing racial otherness. Furthermore, as inmates in this homosocial world, these men knew that gender differences were frequently less rigidly biological than those on the outside likely understood.¹³⁹

Despite the many parallels between these celebratory events in Texas and the Field Day in California, the principal difference was that public spectators were not invited to attend California Admission Day in San Quentin, as they were to Texas' 4th of July and Juneteenth. This was an event solely for inmates and guards, and the handful of elite Olympic Club members who participated as judges. The event was publicized by the prison staff, but only to inform free world people that it existed, rather than to literally show them the event and the pedagogy it entailed. This was a crucial difference in the performance of the day's events, and this was the reason that so many inmates in drag were allowed. It remains unclear why San Quentin authorities did not choose to make this a public event and squelch its sexually transgressive aspects, but the fact remains that this is the shape that the popular culture of punishment took in San Quentin's sporting, and carnivalesque festival.

Conclusion

Athletic programs developed in the Texas and California State Prison Systems grew from small programs to large scale organized events and celebrations from the Progressive Era through the New Deal years. They originated as part of the progressive impulse in the Northeast, where sports filled in gaps in the disciplinary program opened

¹³⁹ See George Chauncey, *Gay New York: Gender, Urban Culture, and the Makings of the Gay Male World, 1890-1940* (New York: Basic Books, 1994).

by organized workers' protest over competition with inmate labor. Penologists quickly came to see the utility in these athletic programs, which they infused with disciplinary and pedagogical meanings, including learning keen competition, fair play and sportsmanship, respect for authority figures and obeying the rules – all practices that inmate would do well to learn to satisfy their present keepers and future bosses. Prison authorities drew from the expanding pool of mass culture and leisure practices in the United States, to retrain inmates in proper behavior, as productive laborers with a good work ethic, as well as consumptive citizens, whose buying would stimulate economic growth as well as national, and individuated, identity. All of this was part of what I call the popular culture of punishment.

Prison athletics programs were very much structured by the social imperatives and class relations of the day. Baseball was segregated by race, delineating anew the privileges of whiteness and denigrations of blackness, while ethnoracial Mexican athletes showed some of the instability of the bipolar racial ideology whose complex reality it constantly tried to reduce to black and white terms. The national meanings of inclusion and exclusion performed in baseball, as well as through Juneteenth, the 4th of July, and the Texas rodeo, demonstrated how racial hierarchies, and structured by gendered identities, were remade for prisoners and for the publics who came to see them play.

But prison sports were this and more. Prisoners found new value, meaning, and pleasure for themselves in athletics. Unlike deadening labor in Texas's cotton fields or in the San Quentin Jute Mill, sports were socially prestigious, manly activities. And

women's dances, as well as other sporting pursuits, also gave prisoners new, if temporary pleasures that could sustain in memory, or be withdrawn for non-compliant behavior. Officials structured athletics by raced and classed identities, but prisoners also claimed themselves and their own priorities through their bodies. Whether they did so in imagining themselves as peers with their free world competitors on the baseball diamond, through the crowds that cheered for a fine play, or if they concentrated on a game as intently as Leo Cody did at the outset of this chapter, they expanded the boundaries of their prison. Like his peers, he strove to assert himself and his priorities into the multi-dimensional and conflictual culture of the prison, where these members of the mobile working classes had been gathered for their crimes.

Conclusion: Incarceration in World War II

San Quentin Prison, like the rest of the Golden State and the rest of the nation, went on high alert on December 7, 1941. Unlike previous emergencies at San Quentin, when desperate prisoners tied sheets together to escape from a window or burrowed under the thick walls, this threat came from outside rather than within the prison. Authorities were afraid that dimmed nighttime flood lights could hide escaping prisoners, but they were even more fearful that the lights would serve as a guide for Japanese bombers attacking the Bay Area. Instead of fighting with each other, international wartime footing gave prisoners and authorities a national common enemy. They could all agree that the Germans and the Japanese were the greater threat to the inconsistent promise of American life, a promise to which prisoners held fast even from behind bars. The Concentration Camps built to control supposed Japanese “Enemy Aliens,” served as actual carceral structures to contain this newfound threat to national security, as well as figurative oppositions to patriotic American inmates. In any case, Camp officials housing Japanese Americans applied the lessons learned in American prisons against this new national and racial internal enemy.

Prisoners were quick to realize the new ideological terrain created by the War, and were sincere when they declared that though they might be criminals, they were still Americans. Thus, any oppositional class politics developed or sustained in the Depression were quickly drawn into wartime discipline, which was, many prisoners believed, their best chance to rejoin the nation. The same patriotic rhetoric that

constrained the left elements of the labor movement during the war years provided grounds for prisoners to claim national belonging.

Wartime, it seemed, was a good time to be behind bars in California. The massively overcrowded institutions grew quieter as prisoners ensnared in the Depression were paroled or finished their sentences, and as numbers of newly received prisoners dwindled. It appeared that good jobs in wartime industries and the demand for soldiers across the armed forces emptied the pool of potential inmates. Prisons emptied as industrial machinery hummed and wallets filled with defense dollars. Consent-based disciplinary institutions, such as factories and the military, took over the role that prisons had played in the 1930s, but in far more socially-esteemed ways.

Nevertheless, the home front was far from united, and the crime wave hysteria of the war years was of course significant in its expression of white insecurity about the complexion of the nation, and expressed fears of black and brown youth in cities across the country. Indeed, ideas of “delinquent youth” were refined, popularized, and thoroughly racialized in the war years, finding deepest expression in the anti-Mexican attacks known as the Zoot Suit Riots in 1943, but also in a series of riots and racial attacks on Mexicans and African Americans across the country.¹ But despite the rising fear of criminal delinquents, total numbers of prison inmates fell during the war years.

¹ Luis Alberto Alvarez, “The Power of the Zoot: Race, Community, and Resistance in American Youth Culture, 1940—1945,” (Ph.D. dissertation, University of Texas at Austin, 2001), Robin D. G. Kelley, “The Riddle of the Zoot” Malcolm Little and Black Cultural Politics During World War II,” *Race Rebels: Culture, Politics, and the Black Working Class* (New York: The Free Press, 1994), 161—181, George Lipsitz, *Rainbow at Midnight: Labor and Culture in the 1940s* (Urbana: University of Illinois Press, 1994), Marilyn S. Johnson, *The Second Gold Rush: Oakland and the East Bay in World War II* (Berkeley: University of California Press, 1993), Ronald Takaki, *Double Victory: A Multicultural History of America in World War II* (New York: Back Bay Books, 2000).

Not only were there fewer state prisoners during the Second World War, but labor opportunities expanded in both San Quentin and Folsom. Labor proved to be a signal source of prisoners' identification as patriotic Americans. Indeed, social realism and masculine imagery abounded in inmate publications, in which prisoners canning food for the war effort portrayed themselves as driving a stake in the heart of Nazism. Not only this, but prisoners in San Quentin took on new industrial roles for the war effort. They stamped cafeteria trays and did laundry for the Navy; they wove an anti-submarine net to be strung below the surface of the San Francisco Bay. Prisoners for worked wages in harvest camps, picking food to feed the nation and be sent to the front lines, and fighting forest fires, protecting material resources for the nation and the war effort. They wove cargo nets and made landing boats for the Navy, and even donated cigarettes to the boys on the front lines. More impressive still, San Quentin inmates donated gallons and gallons of their blood to the war effort, and Folsom created a "Blood Battalion" in which more than 570 inmates participated.² Some joked that the wildness in their convict blood might even give soldiers extra courage on the battlefield. Other inmates, serving long sentences or life terms, wrote to the draft board or to officials that they wanted to volunteer for desperate missions on "suicide squads,"

² On San Quentin, see H. Buderus von Carlshausen, aka "Roark Tamerlane," "America! -- add stars to our stripes," Unpublished typescript, 82. CASL California History Room, 365 C284. For Folsom, see Lyle Egan, Classification Clerk, "Calendar of Highlights in Folsom Prison History: Chronologically Arranged," CSA, Earl Warren Papers – Administrative Files – Corrections – Governor's Prison Committee – Folsom State Prison, Folder 15, 1942-43, F3640:986. Approximately 300 inmates wanted to donate blood on April 20, 1944, to the poorly-named Cutter Laboratory. They would be paid \$4.00 per pint. Mr. Wonder and Mr. Wilcox, of Cutter Laboratories, would arrive at Folsom on April 28 1944 to draw and collect the blood, under the supervision of Folsom's Dr. McAnally. April 21, 1944, State Board of Prison Directors Minutes, San Quentin, Folsom, and Chino, 1944, p. 9. CSA, Department of Corrections Records, F3717:1040.

making a clear effort to restore themselves in death to patriotic honor they had forgone in life. Still others volunteered for medical experimentation supervised by the US Navy's Department of Scientific Research.³

In his unpublished typescript, inmate H. Buderus von Carlshausen wrote: "Remember Pearl Harbor? We have remembered! We the half million who have lost the right to call ourselves citizens, but – thank God! – not the right to call ourselves Americans!" And he was proud to work for the war effort. If von Carlshausen was particularly strident because of his German-sounding name, he was certainly not alone in his patriotism. "There are no strikes here! Not a single worker has had his pay raised since the war came to you, America! – in fact, not a man earns as much as one cent; the harvesting and forest-fire work being, presently, the sole exceptions. These Americans have nevertheless purchased \$130,000 worth of war bonds and stamps. Many former 'residents' serve on every fighting front. Several are reported killed in action."⁴ When told that the military needed more material for sandbags, men volunteered to work extra shifts in the jute mill, despite its stigmatized location in the prison hierarchy.

Prisoners paroled would be even luckier to get to participate and redeem themselves: On March 13, 1942 the *San Quentin News* inmate paper reported that the Board of Pardons and Paroles agreed that any man leaving prison on parole or discharge, and who enlisted in the armed forces, would receive a full discharge and be

³ On experimentation with flu vaccines, see San Quentin, Folsom, and Chino Minutes Summary Books, 1943—1945, Jan 23, 1943, CSA, F3717:1039. Also, Allen M. Hornblum, *Acres of Skin: Human Experiments at Holmesburg Prison: A True Story of Abuse and Exploitation in the Name of Medical Science* (New York: Routledge, 1998).

⁴ H. Buderus von Carlshausen, aka Roark Tamerlane, "America! -- add stars to our stripes," Unpublished typescript, 3, 2. Emphasis in original. CASL California History Room, 365 C284.

reclassified from 4-F to 1-A, from failing the qualifications to being ready to begin training.⁵ Fighting this national war was a method for full reincorporation into the nation. If prisoners couldn't fight, at least they could work for the nation.

Masculinity proved yet again to be a key feature conjoining nationalism, labor, and redemption. Folsom Warden Clyde Plummer asked for inmate volunteers to dig a bomb shelter for the wives and children of Folsom employees. Hundreds volunteered and worked day and night to dig a shelter out of solid rock, which the Board of Prisons called the "best and safest shelter in the Sacramento Valley."⁶ Plummer's call to protect women and children evoked gendered sense of responsibility and paternal control. When prisoners dug the bomb shelter to protect the women and children of Folsom employees, they were also symbolically reasserted their manhood by protecting the women and children of the nation.

Women prisoners in California, relocated to Tehachapi in 1936, also believed that their labor brought them closer to the national community in its time of need. Elvira Clift, Warden of the sewing room, said that the women at Tehachapi loved doing defense work – that it made them feel included in the effort. "Nearly all of them have one or more friends, husband, brother, or somebody in the Service, and they are all glad to do their part."⁷

⁵ Cited in von Carlshausen, 33.

⁶ *Biennial Report of the State Board of Prison Directors, 1940-42*, 21.

⁷ Volume XI: Witnesses Before the Governor's Committee on Investigation of the California Institution for Women at Tehachapi, 216. January 7, 1944. CSA, Earl Warren Papers – Governor's Committee on Penal Affairs – 1943-44. F3640:966.

And though black prisoners continued to receive the worst treatment in California prisons, some used the contradictions between fighting a war against fascism abroad while living under Jim Crow to better their conditions at home. The “Double V” movement existed behind prison walls, as well as on the outside. In late 1943 a prisoner named W. Mills wrote to members of the Alco Investigating Committee demanding better conditions and the dignity that black inmates had earned as Americans. In this time of democratic battle against fascism, and reform of a corrupt prison system, that there should no longer be racial segregation within the Folsom prison. In wartime, racial justice was especially important. Mills wrote, “In times such as these, with America fighting for survival in this world struggle, it is an insult and disgrace to the Atlantic Charter, Bill of Rights and American Constitution to continue to humiliate us Negroes with all kinds of Jim Crow rules.” He continued, “My people since 1619 have worked, fought, bled, suffered and some died to build and protect this country. What more has any other race did? What more can we do?” Despite the long tenure in the United States, and the sacrifice and contributions African Americans made to the nation, black inmates were treated “as though we are not human.”⁸

When prisoners described themselves as patriots rather than as criminals, and when they placed themselves in a national narrative of inclusion beyond the confines of common criminality, they attempted to redefine the terms of punishment. “Love-of-country,” von Carlshausen wrote, “is an emotion rooted too deep for 'the law' to destroy,

⁸ Nov 30 1943 letter from W. Mills (No. 21935) to Alco. CSA, Earl Warren Papers -- Administrative Files -- Corrections -- Governor's Prison Committee -- Correspondence (Folder 5), 1943--44.

even in hardened criminals.”⁹ The profoundly nationalistic effort of prisoners was a movement to de-stigmatize themselves, to change the terms of the discourse by which they were socially outcast. In this, wartime footing generated a movement by prisoners to rearticulate the meaning of incarceration and criminality, against the more distant racial and national others of Japanese and German enemies. It was an astute decision, and one to which government officials ascribed. It was no mere coincidence that prisoners’ sense of patriotism developed rapidly in a context in which the United States Department of Justice asked that prison officials record and register all “alien” inmates of the institution, in accordance with the Alien Registration Act of 1940.¹⁰ Were the national “100 percent” Americanism movements of the 1920s, or the expulsion of “illegal aliens” (especially Mexicans and Filipinos) not enough in the 1930s, international war would provide good reason for patriotic appeals.

When Texas prisoner Anthony Sayers wrote a 1943 letter to Governor Coke Stevenson, he used Texan martial pride to call for lessened brutality against Texas prisoners:

Your Honor they are Texans and they have the same unconquerable spirit that is being shown on the far flung battlefronts of the World. ...[T]hey can be turned into useful citizens and they can be lead (sic) to pull their own weight while they are doing their debt to society, but they cannot be driven any more than the enemy drives the Texans on those battlefronts across the waters.¹¹

⁹ von Carlshausen, 81.

¹⁰ San Quentin Board of Prison Directors Minutes, 1940-42, Sept 14 1940, 8. CSA, Department of Corrections Records, F3717:1011.

¹¹ Letter to Gov. Coke Stevenson from Anthony Sayers, #94054, TSLAC, Stevenson Box 414/136, Folder "Prison System 1943." Sayers also asked Stevenson’s permission to let the Texas inmates play baseball in the Gulf Coast Victory League. He requested that if they were permitted to play, they wanted to donate money from admission to the war effort. “If it could be arranged, we would like to donate some of the Funds to the Army and Navy Relief, Salvation Army or The Red Cross and this would make us feel that we were helping in this war effort by donating to those who are fighting our battles too.”

Prisoners making claim to Americanism did meet some success in their endeavor. With liberal officials in control of the institutions, Clinton Duffy expanded the mass pleasures of radio listening and sporting events behind bars, innovations begun years earlier but which he embraced and fully employed. In Texas, too, whipping was finally officially outlawed, though it was perhaps just driven underground, or took shape through building tenders' violence as state agents.

By many accounts, conditions in Texas prisons changed for the worse during the War. Many blamed the guards. Any physically and mentally fit guards, most feared, would quit the bad pay and work on prison farms and either join the military, or get into the well-paying defense industries. According to some scholars, this at best left questionable personnel in charge of the wards of the state; personnel who were quick to brutalize inmates when they felt they had to. Even though prison populations fell in Texas as they did in California, conditions seemed to deteriorate. Perhaps it was because the prison system had expanded so greatly during the depression that the prison system itself, like the economy of the previous decade, had reached a crisis of overproduction. There were too few inmates to make the farms run, too few inmates to be contained efficiently, too few laborers – either waged or in shackles – for the prison to operate as smoothly as it once had. Even Kenyon Scudder, Superintendent of California's new Chino prison, felt threatened by an inmate labor shortage. Because 73 percent of the inmates at Chino were eligible for induction into the armed forces, (the others were excluded either for their age or the nature of their offence), there was a

potential manpower shortage at Chino. Scudder considered requesting more prisoners from San Quentin to fill this void in the prison's functional capacity, since so much of it ran on prisoners' labor.¹²

The different conditions that Texas and California prisons faced in the new economic conditions of the Second World War also offer a complication of the thesis put forward by Georg Rusche and Otto Kirchheimer, a thesis I have critically engaged throughout the dissertation: that conditions behind bars improve during periods of economic growth and labor demand, and deteriorate in times of labor surplus. This seemed to be true for California's more industrial regime, but was not the case in Texas, which continued to rely on hard agricultural labor, and had a disproportionately black and Mexican inmate population.

Texas prison officials long in the habit of reporting the best of circumstances, continued to do so in the War years, despite persistent violence and brutality, despite Anthony Sayers' description that Texas prisoners had "mutilated themselves in ... protestation." Officials continued to describe fine conditions. 1943 was a particularly profitable year, they suggested, with good crops and sales to the Army. They did describe some shifting of the prison population on different farms as a result of the wartime drop in the prison population, such as the relocation of Blue Ridge and the Darrington Farm prisoners to other farms, where they would remain racially segregated in new farms and camps. The prison did relatively little building due to wartime material shortages, but nevertheless finished a Manager's Residence at Blue Ridge and

¹² San Quentin, Folsom, and Chino Minutes Summary Books, 1943—1945, May 19, 1943, p. 5. CSA F3717:1039.

Ramsey farms, a guard's dormitory at Harlem and a blacksmith shop and warehouse at Wynne. They also connected power lines for the Darrington, Eastham, Clemens, Retrieve, and Ferguson farms so that they could have commercially generated electrical power.¹³

Yet two years later, members of the classification committee admitted, in retrospect, some of the difficulties they faced during the war. The classification committee in WWII was understaffed, but they still assiduously divided prisoners into black, white, and Mexican units. However, they were vocal in their inability to "classify" all incoming inmates, even with the decreased wartime intake. "It is again noted that the present staff is unable to write summaries on all cases, and that no attempt is made to make written reports or summaries on Latin-American and Negro cases." As before, black and Mexican prisoners were denied the dignity of classification—and thus remained undifferentiated among violent and non-violent, between young and old prisoners—from which whites frequently benefited.¹⁴ Conditions in Texas prisons remained brutal, and brutally racist, for many years to come. As prison officials enjoyed the relatively smaller numbers of inmates during the war years, they also looked to the end of the war with a sense of foreboding, and knew full well that the numbers of inmates would rise along with postwar demobilization, and as soldiers accustomed to violence returned home.

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¹³ *Annual Report of the Texas Prison Board*, 1943, 9, 12-13.

¹⁴ *Annual Report of the Texas Prison Board*, 1945, 71.

I have argued throughout the dissertation that punishment must be understood beyond the common sense understanding as a consequence of criminal acts. Like Edwin Owen, the San Quentin prisoner in 1933 who historicized the notion of crime itself, I argue that modes of punishment are themselves historically-specific expressions of social power and conflict. They are active sites of cultural formation, sites where the state, whatever its components and whoever its agents, tries to assert social hierarchies and its version of good order. The state, as an institution, a bureaucracy, an entity, and an idea, is made in the process. And as prisoners opposed or reconfigured those impositions, all expressed their visions of their desired social order. African American prisoners, such as W. Mills and Wesley Robert Wells expressed among the most democratic visions of what racially just punishment could be, but their voices were gagged, their intellectual labor stilted by harsh assignment, repression, and durable poverty.

Members of the multiracial and transnational working classes were forcibly gathered in Depression Era prisons. In Texas and California in particular, inmates ranged from around the country and around the world, but more than any other feature, they shared the commonality of being poor. The vast majority had committed crimes against property. In the midst of radical economic crisis and widespread critiques of capitalism as a social and economic system, it would seem that prisons might become locations of working class politicization. But this was rarely the case. At the very generative moment of cross-racial, working class identification (as prisoners, convicts,

or inmates stripped of their identities by the mordant processes of incarceration), inmates were quickly and thoroughly divided into racial and national groups, whereby obedient whites were offered kinds of social citizenship and retraining behind bars (or told they were offered this redemption), while Asian American, Mexican, and least of all, African American prisoners were fully subordinated and excluded within official penal hierarchies. Historian Michael Denning has identified cross racial working class movement in the 1930s Popular Front, but prisons, as powerful and pedagogical institutions of state control, firmly delineated between racial groups, and undermined any potential of multiracial working class identification. As Lizabeth Cohen described popular culture as a terrain of progressive political mobilization and common ground across ethnic and racial lines in interwar Chicago, the popular culture of punishment reconfigured racial, class, and national hierarchies. White prisoners claimed the prerogatives that their skin privilege entailed, to be sure, and as a result of this and more, conflict permeated the institution; conflicts of an alienated working class divided against itself, and conflicts between prisoners of all sorts and against their keepers.

No less than the individual bodies and identities that these prisons created (as well as destroyed), these state institutions also strove to enforce the ideological and territorial borders of the nation itself. They differentiated who belonged to the nation as a redeemable citizen, who would be punished harshly inside national prisons as criminals, and who would be expelled from the territory of the nation itself as an illegal alien. When prison officials reported Filipino, Chinese, or Mexican “aliens” to the Immigration and Naturalization Service for deportation, they firmly drew the lines of

national otherness. African Americans especially, and those prisoners reproduced as racial (rather than ethnic) others in American prisons, would remain behind prison walls, or, upon release, would be returned to barrios, ghettos, impoverished rural town, or factories in the fields to scratch out a living on the edge of the legal economies from which they were generally excluded. Housing covenants no less than harsh policing of illicit economies would enforce racial segregation, into and beyond the liberal years of the Civil Rights Movement and the national transformation it generated.

The conflicts I have explored came through the lines of racial power and dominance, class hierarchies, and sexuality and gender. The state played a key role in regulating these identities and the people associated with them, and in so doing, also aided in the process of differentiation among these prisoners, which can be understood as a kind of border formation. I have described not just how these hierarchies were lived, but I have also examined how they were produced through forms of recordkeeping, spatial distribution, labor law, labor assignment, intra-prisoner conflict, and through mass media and leisure pursuits. All of these manifested themselves in historically particular ways in the 1930s, and would change through the rest of the century. Though I examine their historical contingency and production, many of these features remain highly durable. The persistence of racial power and class dominance in American history (and beyond) came through their pliability, their ability to shift forms and shapes, and criminality has remained a key, ostensibly race-neutral feature of enforcing national belonging and otherness.

This dissertation has examined how racism was produced in the United States in the 1930s, in two multiracial states that would help set the tone of national discourse for the rest of the century. It has examined how racism, as well as class formations and ideas of criminality and citizenship, were produced in locations of extreme social repression. Since the 1940s, prisons have become increasingly important to the symbolic and material foundations of American nationality through the rest of the twentieth century and into the twenty-first.

In every case, punishment was part and parcel of political economic transformation, a site of social conflict that brought together forces racial dominance, of the protection of class relations, and the regulation of violence under the roof of the state, which would try to master them all. The underside of the modern, regulatory American state was forged in the process, attempting new modes of benevolent social control as well as practicing the most ancient forms of dominance. A full spectrum of domination and redemption were expressed in Texas and California prisons, of forced labor, ambivalent pleasures, of therapy and pain. The racial, sexual, and national contours of the nation were made, and contested, as a result, in institutions that formed the final sanction available to the state, as it guaranteed and nurtured a capitalist economy thoroughly structured by racial and gender dominance.

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