

CRESCAT SCIENTIA



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CRESCAT SCIENTIA

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Editor-In-Chief 2009

Tamara L. Stanton

Editor-In-Chief 2011

Natalie Bankhead

Kristine McLain

Faculty Advisor

Dr. Kathren Brown: History Department Chairman

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Office of the Editor-in-Chief

Utah Valley University, Department of History and Political Science

800 West University Parkway, MS 185, Orem, Utah 840057

Phone: (801) 863-8487 Fax: (801) 863-7013



This edition of Crescat Scientia is dedicated to the History and Political Science professors of Utah Valley University who labor tirelessly to provide the very best in history education to the students of U.V.U.

ACKNOWLEDGEMENTS

Thanks to the many scholars whose contributions have made the 2009-2011 joint issue of *Crescat Scientia*, a comprehensive compilation of exploration, research, and excellent writing. Without the efforts of a wonderful editorial staff this edition would not have been possible. We also want to acknowledge the unfailing support of Kathren Brown, faculty advisor, Professor William Cobb, and department secretary, Paula Wankier.

Editorial Board

2009 Editors

Tamara L. Stanton

Tamara L. Stanton is a 2010 graduate of Utah Valley University with Bachelor's degrees in History and English with a creative writing emphasis. She is a published poet and short story writer. She enjoys reading classics and historical non-fiction, plinking at the piano, making extraordinary bread, running marathons, and of course, writing. She lives with her husband, Lloyd, in a peaceful cherry orchard in West Mountain, Utah where she is visited often by her favorite people, her children and grandchildren.

Nadia Ashtawy

Nadia Ashtawy turned twenty this summer and lives in Pleasant Grove with her parents and siblings who she loves spending time with. She is currently working on a B.S. in English Literary Studies as well as a Technical Writing certificate and will graduate after the Spring 2011 semester. She works on the UVU's campus newspaper *The UVU Review* as a writer and assistant editor for the V section, and she loves being able to read and edit things fellow students have written.

Kristi Peterson

Kristi Peterson graduated from UVU in April 2010 with a B.A. in History. She is passionate about history and some of her favorite eras to study are: Colonial America, Revolutionary America, and Native American History. Kristi plans on attending graduate school and eventually earning her Doctorate in History. She would love to become a history professor someday. Kristi keeps busy with her four children and all of their sporting

events. Kristi and her husband can be seen at a baseball game, football game, or wrestling match almost every weekend in the year watching their kids compete. Kristi has enjoyed her time at UVU and working on the history journal.

Kimberly J. Palmer

Kimberly J. Palmer is a current student at UVU studying American Sign Language & Deaf Studies. Kimberly fell in love with history by reading journals and memoirs of World War II while she was in elementary school. Her love of history now extends to her major and she spends most of her time studying deaf history in the United States and on a global level. In her spare time Kimberly enjoys reading; her favorite books are still memoirs of all kinds. She also loves to cook, write, and spend time with her husband. After graduation she plans to teach American Sign Language and deaf history at the high school level.

Kellen De Alba

Kellen is a History major with an emphasis in Native American, Latin American and Polynesian history. He is aiming to finish a Masters at the University of Utah and hopefully a doctorate at the University of Hawaii. He is from Mexico City and as far as he knows (that is at least since 1770) all his ancestors are from Jalisco, Mexico. There are some German, some Spanish, some French, and some Aztec and Huastec/Totonac. He speaks fluent Spanish and Portuguese and a bit of English. He loves UVU!

Erik Freeman

Erik was born and raised in Utah County. He graduated from Orem High School. After high school, he lived in France and Switzerland for two years. In Europe, he learned to love French language, history, and food. Later he attended Brigham Young University where he majored in French education and minored in Sociology. While at B.Y.U. Erik played on the

football team and met his future wife, Catherine, who was at the B.Y.U. language center as an International student from France. He graduated from BYU in 2008. For the last two years, he has been teaching at Oak Canyon Jr. High school as a French and U.S. History teacher. He has returned to school to receive a second Bachelor's degree in History from UVU in December 2010. Next year, he plans on attending graduate school and eventually receiving a Ph.D. in History.

2010 Editors

Haley Larsen

Haley Larsen is a Senior English major with an emphasis in Literary Studies. After graduating with Honors this spring, she plans to begin the long road to becoming a professor of English literature. With plans to attend graduate school in the fall, this semester Haley is enjoying the smallest class load of her undergraduate degree, leaving plenty of time for yoga, hiking, and playing with her favorite nephew. A lover of Mary Oliver poetry, Tina Fey's humor, and anything with pistachios in it, Haley has absolutely loved the opportunity to help a very fine group of students become published this year. Here's to you!

Natalie Bankhead

Natalie Bankhead is a Philosophy major with minors in History and Classics. Born and raised in Provo, Utah she has a serious case of wanderlust with hopes of traveling to India, Egypt, and Greece in the near future. Her interests are erotic art history, animal rights, yoga, and the great outdoors. Natalie has enjoyed working with this fantastic group of writers and editors, and of course is thrilled to see this journal finally in print.

Samuel R. Hegstrom Oakey

Samuel R. Hegstrom Oakey is currently a student at Utah Valley

University. He enjoys literary criticism and theory. He has aspirations to write fiction, but is highly realistic about his fortunes and only shares this information tentatively. His experience with *Creccat Scientia* has been enlightening and he hopes to work with other publications in the future.

Mykle Law

Mykle Law grew up in various places, but mostly in Provo, Utah. He served a full-time LDS mission in Washington State. He is generally interested in economics, philosophy, writing, sociology, history, and politics. Mormon History, collectivist and individualist ideologies, and comparative history are particular points of interest. He is currently attending UVU in Orem, Utah, and slowly planning a capstone project on the history of the United Order in Utah. He maintains two blogs, works as a writing tutor for UVU, and talks about politics too much. He spends his free time running ridiculously long distances, playing Tetris, tinkering with ancient valve electronics, playing guitar, or best of all, hanging out with his wife.

Kristine E. McLain

Kristine is currently a double major in Philosophy and History with a minor in Classics. She plans to go on to graduate school and use her knowledge of Attic Greek to translate super awesome texts and provide more commentary to add to the absurd amount of literature already documenting the Ancient Greek and Roman worlds. Working on *Crescat Scientia* has been a great experience for her and has allowed her to grow in numerous ways.

Jenna Atkinson

She is a History turned English Literature student. On top of working on *Crescat Scientia*, she is working with the English faculty in order to develop a scholarly journal for the Language and Literature students. She

is in her last year at UVU and hopes to soon attend graduate school and begin a career studying modern and post-modern literature, as well as James Joyce.

Debra K. Cloward

She is an English major with a minor in American Indian Studies, attending Utah Valley University. She is hoping to go into the publishing industry with a specialty in editing. She'd like also to have opportunities in the free-lance writing field, and is considering graduate school options. She passes by free-time with reading, writing, moving-watching, and upholding ridiculous inside jokes for way too long.

Charles Broadbent

Sappy nerf herder, broken heart donor, and the perennial life of the search party. He enjoys sleep, cigarettes and coffee, and aspires to enjoy them together. When he is not editing the history journal, he plays bocce ball for tall orders of beef, and watches artsy films so he can pretend he is creative when discussing them with other frauds. His favorite quote is "No" from his mother and he quotes her often.

Michael Booth

Michael designed this journal and did all of the fancy behind the scenes work that most people don't think about. There is a history of designing skills in his life that he no longer pursues because it is not that exciting. Designing, and such media endeavors, are pretty tedious business and rarely do designers get to be creative. — A personal anecdote: Mike went to school because the economy flopped a few years ago. You see, he lost his job designing nonsense for multi-level marketing monstrosities, and there he sat bored with life— Now he studies Anthropology at UVU. He's a little less jaded about it all now, and a little less bored, but not much. So it goes... Yep, so it goes until you are free and floating in the blackness, not aware of your non-existence! Until then, keep struggling!

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EDITOR'S NOTES

History with its flickering lamp stumbles along the trail of the past, trying to reconstruct its scenes, to revive its echoes, and kindle with pale gleams the passion of former days.

—Winston Churchill

Speech in the House of Commons

November 12, 1940

What is history? For the unwilling, it is the perception of a stiff, unyielding chronology that lends itself to stifled yawns and the rolling of eyes. To the dedicated seeker, history is an unlimited vista that looks beyond the markers of time and place to view, not only what transpired, but what factors led to the events that happened, then transformed the future. And yet, history is still more than a series of events. It is the story of individuals who find themselves in a particular moment playing on a stage that will someday be reviewed, analyzed, and revised to decide what really happened. That is the excitement of history, finding another puzzle piece that allows the viewer to more thoroughly examine and decipher clues of the past.

Happy I esteem those to be to whom by provision of the gods has been granted the ability either to do such actions as are worthy of being related or to relate them in a manner worthy of being read; but peculiarly happy are they who are blessed with both these uncommon talents.

—Pliny the Younger. Letters.



What "Romance" We Had: Thomas Owen King, Jr., Pony Express Rider

Kristine Wardle Frederickson

The author wishes to thank Pioneer Magazine for granting permission to reprint parts of her article published in the "Pony Express, 150th Anniversary, 1860-2010" Edition, Vol. 57, No. 2.

"If we, who came in early years, to this then desert country, had only kept journals, what a romance or rather what romances might have been written; (but then who would have believed it)! [And in truth] the very paper needed to write upon was scarce....[Nevertheless] by your request I will try and write you a short outline of my early life history on the Pony Express."¹ Thus begins a brief account, written by Thomas Owen King, Jr., a Pony Express rider in Utah in 1860. While King's remembrances are short and sketchy they are rich history since few riders wrote personal accounts and few records were kept by the Pony Express Company. The little information that exists comes primarily from newspapers and magazines written in 1860 or 1861.² King's observations flesh out the Pony Express experience from the rider's point of view.

Although the Pony Express was in existence for only a year and a half, from April 3, 1860, to late October 1861, it continues to capture the historical imagination of individuals in our day. By 1860 about one half million people lived west of the Rocky Mountains and they desired news and more rapid communication about people and events in the East. The Pony Express was a mail service conceived by William H. Russell, one of the principals in the Central Overland California and Pikes Peak Express Company. The idea was to secure a contract from the government to speedily deliver letters between the American East and West coasts, and parts in between.³

1 Private letter to H. Y. Faust from Thomas Owens King, Jr., in possession of Dorothy Brewerton, great-granddaughter of T. O. King, Jr., 1.

2 Bill and Jan Moeller, *The Pony Express, A Photographic History* (Missoula, Montana: Mountain Press Publishing Company, 2002), vii.

3 The Leavenworth & Pike's Peak Express Company of 1849 was founded by William H. Russell, Alexander Majors, and William B. Waddell and became the Central Overland California and Pikes Peak

The eastern route began in St. Joseph, Missouri and the west point was Sacramento, California, going through the present day states of Kansas, Nebraska, Colorado, Wyoming, Utah, and Nevada. With the advent of the Pony Express, delivery time for letters between the two points was reduced to about ten days, as opposed to several weeks and sometimes months. Written communications were carried by horseback riders on ponies chosen for their speed and ability to navigate the specific terrain they would traverse. The rider would ride for approximately seventy-five to one hundred miles, stopping at relay stations every ten to fifteen miles to dismount and climb aboard a fresh pony, so that the horse could always proceed at a full gallop.

William Russell, Alexander Majors, and William Waddell pulled the Pony Express together in only two months in the winter of 1860. Their mammoth task included hiring approximately 120 riders, several hundred support personnel, setting up between 157 and 184 stations, and acquiring 400 top-quality horses. The owners spent \$700,000 on the Pony Express and had a \$200,000 deficit when the Pony Express folded. The anticipated million dollar government contract never materialized because of political pressures and the outbreak of the Civil War.

One of the principals, Alexander Majors, was a religious man and resolved "by the help of God" to meet the challenges of this endeavor. He believed the best way to do this was to give each rider a Bible and require them to sign an oath affirming:

While I am the employ of A. Majors, I agree not use profane language, not to get drunk, not to gamble, not to treat animals cruelly and not to do anything else that is incompatible with the conduct of a gentleman. And I agree, if I violate any of the above conditions, to accept my discharge without any pay for my services.

T. O. King, Jr., was one of many applicants for this well-paying but dangerous job and welcomed owning a new Bible and signing the pledge. He joined the Pony Express when he was barely twenty years old and this was not his first experience with the rigors of "cowboy life," although his early life made him an unlikely candidate for such

Express Company in 1850. The company secured a government contract to haul freight and deliver army supplies throughout the American West. Their goal, in creating the Pony Express, was to snare a government contract for delivery of the mail, something that did not come about.

adventurous occupations.

T.O. was born five miles from Cambridge, England in the village of Sawston, on April 27, 1840. His granddaughter explained that prior to emigrating to Utah his father, Thomas Owen King had, "high hopes for his only son, a young boy of eleven, to inherit the estate from him, to acquire a private school education, and go on to graduation from Cambridge."⁴

However, his mother, Hannah Tapfield King, joined the Church of Jesus Christ of Latter-day Saints after hearing the missionary message from her dressmaker, Lois Bailey, and was baptized in 1850. Hannah hoped to emigrate and join Church members in Utah but there was little hope of doing so until one day the Mormon missionaries administered to Thomas King after his physician could not stop a bout of nasal hemorrhaging and feared he would bleed to death. True to a promise, that if the missionaries healed him he would move to Utah, Thomas sold his farm and household equipment and the family traveled by ship and train to join the Saints in the West.

It was a challenging transition for the family. Thomas was a copyholder in England, meaning he rented land from an aristocrat. In this instance, Thomas rented 238 acres from Lord Huddleston and managed a successful farmstead at Dernford Dale, employing a cadre of farm workers and a sizeable household staff. The family was well-known and respected in their community.

In Utah, however, they found themselves in reduced circumstances, surprised at the austere frontier conditions. When they arrived in Salt Lake City, "The people were all about as rich as one another – no body having very much and a stove a curiosity....The people traded with each other what they had for what they needed. Tallow candles were as good as gold for a ticket to the Ball."⁵ The terrain, the city, new customs and primitive circumstances—compared to their life in England and the comforts it afforded—made the transition difficult for Thomas Owen and his wife Hannah, although she never regretted her decision to join with fellow Saints in Utah.

4 Private letter written by Bertha Eames Loosi, granddaughter of Thomas Owen King, Jr, to Carol Catlin. In possession of Dorothy Brewerton, great-granddaughter of T. O. King, Jr.

5 Brief autobiography by Thomas Owen King, Jr., probably written later in his life, in private possession of Dorothy Brewerton, great, great granddaughter of T. O. King, Jr.

T.O. King, Jr., however, seems to have settled comfortably into pioneer life and became "known as a good 'cowboy' in his youth."⁶ He quickly realized the need to help the family as well as fend for himself. In later reminiscences he described some of the ways he earned his livelihood as a young man. At age fifteen, "In 1855 I went to Carson Valley as a guard to Judge [Orson] Hyde."⁷ In the fall of that year, "I went to Humboldt Wells to arrest Alfred Haws accused of murder. Fall of 1856 [and 1857] I went on a Gov. Surveying Expedition under Chas. Morgan [of Sevier and Sanpete Valleys]....In May of the same year I joined Young's Express Co. Just before spring broke in 1858 [I] was called out with a large company to follow Indians west that had run off a lot of horses."⁸ The group eventually lost the trail in a blinding snow storm and returned empty handed. Before age twenty, T. O. was an Indian War Veteran, serving under J. D. McCallister and Thomas Rich for two years during the Utah War and performed "military duty at [Fort Bridger], Fort Supply, Green River, Ham's Fork, etc."⁹

The work was hard and T. O.'s mother worried for her son's safety. When he went to work for Young's Express developing a trail station at Deer Creek, over four hundred miles east on the Mormon Trail, she wrote, "May 26th, 1857. 8 o'clock A. M. My beloved Tom Owen has just started with his baggage on one arm and his rifle on the other...I am glad that he is going to be useful in the Kingdom of God, but I cannot but feel [anxious] at parting with him. Oh! My Father! Look graciously upon my child and give Thine Angels charge concerning him.... May 27th. My mind is full and somewhat melancholy today engendered by parting with my beloved boy."¹⁰

Much of what T. O. earned with Young's Express, and later with the Pony Express, went to help his family. As early as 1855 he was already donating to the family, as seen in his mother's diary entry, "Christmas Eve, 1855... I would here write that [T. O.] has shown a first

6 Private letter by Bertha Eames Loosi.

7 Private letter to H. Y. Faust from Thomas Owens King, Jr.

8 Ibid.

9 Carolyn Gorwill, ed. *The Journals of Hannah Tapfield King: Supplementary Information on the Pioneer Lives of Her Three Children* (Privately published, 1985), 35. See also, *The LDS Biographical Dictionary* for details of time served and commanders he served under.

10 Carolyn Gorwill, ed., *The Journals of Hannah Tapfield King* (Privately published, 1984), 131.

rate spirit towards us with his means. Paid his tithing, etc., bought me a pair of overshoes, and when I was so weak through illness and my bad thumb, he paid for some fine bitters for me at Golbe's, the auxiliary of which was the finest port wine. And it went far in restoring my health and strength under God's blessing. And may the Lord bless him, as He will, for his goodness to me."¹¹ On Christmas Day the family ate roast beef and plum pudding, "thanks...to money her son had earned the previous month on an expedition as part of a posse. [Hannah] was particularly proud of Thomas Owen:"¹²

T. O's work with Young's Express Company was a natural precursor to riding with the Pony Express. Young's Express provided local stage service for passengers at stations between Salt Lake and Wyoming. This concept of way stations for passengers and freighters carrying goods between the East and the West, combined with the desire for quicker communication and faster mail service, was the impetus behind the creation of the Pony Express.

The Pony Express Company used existing or built new relay stations. Some were well-kept and offered respite for weary Pony Express Riders. Green River Station was a clean, comfortable main station, "the home of Mr. Marcarthy...[with] the indescribable scent of a Hindu village....The ground about had the effect of an oasis in the sterile waste...the stream supplying excellent salmon-trout."¹³ Conversely, there were a good number that were squalid habitats. One of the stations that T. O. serviced was Hams Fork Station, "Made of native rock, [it] was built as a stage station in 1850. David Lewis, a Scottish Mormon, managed the station along with his two wives and large family. It was a squalid, filthy place, full of flies. The furniture, such as it was, was cobbled together from parts of dilapidated wagons."¹⁴ Richard F. Burton, the British explorer, traveled to the United States.¹⁵ He also described Hams Fork

11 Ibid., 137.

12 Leonard Reed, *The Songstress of Dernford Dale, The Life of Poetess, Diarist and Latter'day Saint Pioneer Hannah Tapfield King* (Unpublished manuscript, 2009), 94.

13 Joseph J. Di Certo, *The Saga of the Pony Express* (Missoula, Montana: Mountain Press Publishing Company, 2002), 125.

14 Moeller, 78.

15 Burton spent a good deal of time in the Far and Middle East studying different religions. He traveled to the United States to observe the Mormons in Utah and described his adventures, as he followed the Pony Express route, in his book, *City of the Saints*.

Station, "it was a disgrace; the squalor and filth were worse almost than the two – Cold Springs and Rock Creek – which we called our horrors.... The shanty was made of drystone piled up against a dwarf cliff to save backwall, and ignored doors and windows. The flies – unequivocal sign of unclean living! – darkened the table and covered everything put upon it: the furniture, which mainly consisted of the different parts of wagons, was broken, and all in disorder; the walls were impure, the floor filthy."¹⁶

Although the stations might vary in quality, in purchasing horses for Pony Express riders the Pony Express Company did not skimp. They purchased the choicest mounts they could find and chose different types of horses best suited to the differing terrains. They understood that the success of the Pony Express and at times the life of the riders depended "on the spirit, intelligence and endurance of the horses."¹⁷

The next task was to find riders willing to place themselves in danger whether it be fending off Indians or besting the terrain and surviving the often brutal weather. Utah was a unique location. There were twenty-six stations over 275 rugged miles with sometimes brutal ascents and descents. Passes through the mountains could be heaped with fifteen-foot snowdrifts and in summer vast desert stretches could blister at temperatures topping 110 degrees with little water for many miles.¹⁸

The Pony Express Company promised service from St. Joseph, Missouri to California in ten days or less and advertised by word of mouth and by poster, "Wanted / Young, skinny wiry fellows not over eighteen. Must be expert riders willing to risk death daily. / Orphans preferred. Wages \$25 per week. / Apply, Pony Express Office inside"¹⁹ Hundreds of applicants were winnowed down to the required number and T. O. King was a perfect match as he was, "no stranger to the hard life of the frontier,...[a] skilled horseman and hunter, accustomed to dealing with Indians, self-reliant and resourceful. Above all [he was] drawn by the spirit of adventure."²⁰ T. O. had also "helped build many of the Pony Express stations east of Salt Lake City," and familiar with the terrain and

16 Richard F. Burton, *The City of the Saints, Among the Mormons and Across the Rocky Mountains to California* (Santa Barbara, CA: The Narrative Press), 136.

17 Fred Reinfeld, *Pony Express* (Lincoln: University of Nebraska Press, 1973), 40.

18 Di Certo, 127.

19 Moeller, 4.

20 Reinfeld, 39.

physical demands he "became a rider."²¹ He earned \$100 a month and his routes included the "Weber River in Utah to a point twelve miles beyond Fort Bridger [and]....from Salt Lake City to Bear River."²²

The risks and dangers encountered by Pony Express Riders were every bit as fearsome as anticipated and T. O.'s experiences indicate just that. His reminiscences begin in March of 1860 when A. B. Miller hired him as a rider. Not only were there main stations along the route with a standing structure, stables, supplies, and a station manager, there were also many austere relay stations, barebones affairs where riders often simply met someone offering a fresh mount, perhaps meager food, and they were off again. As a rider, T. O. was assigned to both main and relay stations.

About the 20th of the month T. O., Henry Worley, George Leonard and Miller took "a lot of horses" and "stock[ed] the road from Salt Lake to Bridger."²³ They stopped at Snyder's Saw Mill, Farley's Fork and went out to mouth of Echo Canyon where, as T. O. described, "I stopped, being my home station. I was to ride to Bear River [and]...on the 7th of April at noon, the long expected Pony Express came. I forgot if I had dinner or not, but it took but a minute or two before I was in the saddle and off."²⁴

T. O. described that first ride, "20 miles up Echo Grade, slow at first and increase speed as I went, gave my horse one or two breathing spells. I went into the station with a yell as tho I was running for the Derby. The yell brought Frenchey out with my other horse. The change being made I rode to Bea-Bug Cave, 5 miles, when it commenced snowing."²⁵

When it snowed, conditions often became treacherous. T. O. describes conditions in one winter storm, "The snow was deep which had not as yet thawed and there was only a trail made by mules carrying the U. S. mail to follow. If you got out of that trail down you went belly deep to a horse, and perhaps deeper, according to the lay of the ground you happened to get off at. It was all uphill and if I could only reach the top before the trail filled up I did not care, as I thought I could stumble

21 Moeller, 84.

22 Gorwill, *Pioneer Lives of Children*, 35.

23 H. Y. Faust from Thomas Owens King, Jr., 1.

24 Ibid.

25 Ibid.

down thru it in some shape going down, for I knew it was pretty steep."²⁶ T. O. explains that he lost his way in the storm and the trail disappeared and "for ten miles the snow was deep but I made schedule time. I got to Bear River at 4 o'clock then George B. Leonard took it."²⁷

T. O. was far from finished. He then had to ride from "Weber to Muddy, 60 miles....I started from the Weber at eight o'clock P. M. and arrived at the Muddy (60 mi.) at a quarter of two next morning."²⁸ When he arrived at "the Muddy...I laid down under an old wagon until sunrise, got breakfast and at 12 the exchange came and I started back and arrived at the Weber at half past five, riding 120 miles in 22½ hours minus the time I stopped at the Muddy."²⁹ Pony Express riding was not for the faint of heart.

Another early adventure occurred carrying the eastbound mail in April 1860 when T. O. lost the Mochila³⁰ the leather coverlet with the bags sewn into it holding the mail. While he was riding, "Twenty miles from the fort, [T. O.] encountered a bad storm. King's horse stumbled and threw him, and the mochila flew off the saddle and went over a cliff." In the blizzard T. O. had to scale the rock face, retrieve the leather mail bag, throw the twenty-five to thirty pound weight over his skinny shoulders, ascend the cliff and make his way back to his horse, "Once remounted, he urged his horse on. When he reached his destination he had made up the lost time and delivered the mail intact and on schedule."³¹

Often, Pony Express riders passed one another going opposite directions. There was barely time for a wave or catcall. On one occasion, after a long night ride T. O., "reported that he had not encountered his opposite rider, Henry Worley, on the way. When Worley pulled into his station, he reported the same thing—he had not seen King."³² But as T. O. later explained, "We often passed each other fast asleep but on our

26 Ibid., 1-2

27 Ibid., 2.

28 Ibid., 2.

29 Ibid., 2.

30 The mail was carried in a mochila, a piece of leather with 4 padlocked leather boxes sewn onto it. It was shaped to fit over the Spanish saddle used by vaqueros, and chosen for the Pony Express because it was lighter.

31 Moeller, 84.

32 Ibid., 84.

horses going at the usual rate.”³³ Even as their horse hurtled along the trail, “It was not uncommon for riders to sleep on their routes, trusting their horses to find the way.”³⁴

On another trip, one “I shall never forget it, before getting to Echo Canyon going east, there is quite a wide and level space, from half a mile to a mile wide between the high bluff and the Weber. In the distance I saw a wagon coming. It was about 12 o’clock at night. I was riding a horse that had only been rode a few times. Not thinking I got between the wagon and the river, to pass, when something scared [my horse] and taking the bit in his teeth he started for the river.

Here I knew the banks of the river to be [at] least 20 feet to the water. In less time than it takes to write it I knew I must be close to the bank and turn him I could not.”³⁵

Fearing that he was about to hurtle off the cliff, possibly to his death, “I had just thrown my feet out of the stirrups to throw myself off when the horse turned. I only had a snaffle, [a bit for a horse jointed in the middle with rings on either end where the reins are attached] but the remainder of the distance to the station he just flew to please me.”³⁶

T. O. described the longest ride he made, “at a time when the express did not connect. I forget the date out but it was late in July of 1860 or beginning of August. I started, as usual, about ten Monday and rode to Bear River, 80 miles. Tues. at 10 o’clock another express came and I had to take it on east. I rode to Hams Fork, 65 miles, before I found another to take it, and at sunrise the eastern express came & I rode back to Bear River 65 miles and ate a hasty breakfast then rode to East Canyon Creek and ate dinner, gotten up by our mutual friends Guglielmo San Giovanie and James McDonald; from there to Salt L. City, by 7 o’clock that P. M. being 145 miles that day. Lacking two or three hours of 48, in which time I had ridden 200 miles and was not tired. For I very well remember taking a walk with my best girl that evening.”³⁷

Clearly Pony Express riders had to be durable, flexible, able to

33 H. Y. Faust from Thomas Owens King, Jr., 2.

34 Moeller, 84.

35 H. Y. Faust from Thomas Owens King, Jr., 2.

36 Ibid.

37 Ibid., 2-3.

endure wretched conditions, and skilled horsemen. There was, "Another time the express came wrong and I had to take it west to Fauste Station in Rush Valley, I believe 75 miles."³⁸ Riding at top speed, with only a short respite to trade horses and carrying on when circumstances demanded was yet another challenge riders often faced. Many of the riders were rough and tumble individuals but, "Despite all the rough work and tough characters with whom he associated...many of his companions say the worst swearing he ever uttered was 'By Jings!'"³⁹

T.O.'s experiences certainly would have continued but in September 1860 he was called to be a missionary for the Church of Jesus Christ of Latter-day Saints and "I left the Company to go to England [for four years] on a mission."⁴⁰ Even then his experiences with the Pony Express were not quite over. On his way east to board a ship to England he described, "As we pass[ed] big or little Sandy, an express rider had been thrown, his legs broken, with no surgeon nearer than Fort Bridger. Our esteemed citizen John Kay being in the party, he set the boys leg[s] and we drove on."⁴¹

Although the Pony Express only provided mail service between April 1860 and October 1861, its mystique endures. T. O. King, Jr.'s account does nothing to diminish that mystique. Though a brief narrative, readers gain a real sense of the danger, adventure, and intrepid courage required of Pony Express riders. It is not hard to imagine that if paper had been available and more accounts had been recorded, "what a romance or rather what [additional] romances might have been written."⁴²

38 Ibid., 3.

39 Private letter, Bertha Eames Loosi.

40 H. Y. Faust from Thomas Owens King, Jr., 3.

41 Ibid., 3.

42 Ibid., 1.

Biographical Notes
Kristine Wardle Frederickson

Kristine is a UVU faculty member.

BORDERLANDS

DAN JACKSON

The Pueblo Revolt of 1680, and the story of the borderlands in general, is a fascinating chapter of United States history that is too often overlooked in the modern classroom in favor of British colonization. The rebellion of the Pueblos against their Spanish overlords after three generations of rule stands alone in the history of the Western Hemisphere as the most successful revolt of its kind. Never again did natives defeat their European conquerors on such a large scale. Intriguingly, the Pueblo tribes rose up in concert, drove the Spanish out of New Mexico completely, and remained autonomous for over a decade. Borderlands historians have discussed at length why this particular revolt was successful, when so many other native peoples remained firmly under Spanish control.

At the turn of the twentieth century, forefathers of modern Borderlands history, such as George Hammond and Charles Hackett, compiled and translated into English many of the Spanish documents that survived the Revolt and subsequent centuries. These documents and several subsequent secondary sources had a pronounced pro-Franciscan bias. This was due in large part to the fact that the majority of surviving primary source documents from the period were written by Catholic priests. An exception to this rule was Ramón Gutiérrez's controversial work, *When Jesus Came, the Corn Mothers Went Away*, an extensive indictment on the Franciscan Order in New Mexico. In recent years, historians have given a great deal of attention to the role of Pueblo culture in the events that unfolded in the Province of New Mexico. In his book, *The Pueblo Revolt*, published in 2004, David Roberts interviewed several people from within Pueblo communities in an attempt to document native perspectives, attributed to oral histories passed down over centuries. Although the historical accuracy of such accounts is subject to debate, there is no shortage of dubious accounts from the Spanish perspective as well. There was a tendency among seventeenth-century Spanish writers to make grossly exaggerated claims as will be demonstrated later. Such errors may have been accidental, or by design, but the practice effectively skewed much of the concrete information available today regarding early New Mexico. Regardless, these writings remain extremely valuable because they provide insight into the sentiments and motives of different

parties throughout the province.

All of these histories demonstrate the adeptness with which the Pueblos were able to retain their cultural identity despite eighty years of persecution by Franciscan priests. They describe the oppressive nature of Spanish rule, and the resentment that the Pueblo tribes held as their religions were torn from them. Additionally, they were subjected to *encomiendas*, and their meager resources were taxed and stolen. However interesting and relevant these facts are, they are insufficient in explaining why the Pueblo Revolt was successful. Native peoples throughout the New World were subjected to as much and in some cases worse. Many natives were also able to maintain their cultural identity as effectively as the Pueblos. Yet, the Pueblos successfully drove off their European conquerors while other indigenous peoples remained firmly under Spanish control.

The Pueblo's success was not only the result of their own efforts, but was due in part to the actions of their conquerors. All three major Spanish factions in New Mexico (the ruling elite, the Franciscans, and the common man) faltered in their power, influence, and motivation. The Pueblo Revolt was successful because the Spanish occupation of New Mexico was a complete and utter failure. The reasons for this failure were many. First, the economic realities of life in New Mexico were a great disappointment to the Spanish in comparison to their expectations. Second, the climate and geography of New Mexico were extreme. The land itself was harsh and prone to drought and famine, preventing large-scale European settlement. Third, the province's extremely remote location isolated the settlers from the rest of New Spain, further discouraging colonization. Fourth, the Spanish presence in New Mexico upset a fragile balance that had existed among natives for millennia. As a result, sedentary settlements and travelers were under constant threat of raids by starving bands of Athapaskan tribes such as the Apaches and Navajos. Finally, much of the time period was marked with political unrest and a struggle for power between church and state that caused extreme difficulties for natives and settlers.

Economic Realities of Seventeenth-Century New Mexico

When Spanish conquistadores first discovered the Aztec and

Incan empires, they acquired wealth and fame that defied imagination. It became the dream of every Spanish noble adventurer to find the next Mexico.¹ Natives seemingly capitalized on this treasure fever by telling stories of other great cities, perhaps in an effort to get their conquerors to move on in search of more lucrative fortunes.² One such legend was a major driving force in the exploration of the borderlands and beyond. It was said that seven cities of gold existed to the north of Mexico. These fabled cities, also called the Seven Cities of Cíbola, drew adventurers and priests into the North American interior for the first time.

One such priest, Fray Marcos, was the leader of the first official exploration into the borderlands. After laying eyes on what he believed to be Cíbola from a distance, Fray Marcos stated:

... I proceeded on my journey until coming within sight of Cíbola, which is situated in a plain at the base of a round hill. The pueblo has a fine appearance, the best I have seen in these regions. The houses are as they had been described to me by the Indians, all of stone with terraces and flat roofs, as it seemed to me from a hill where I stood to view it. The city is larger than the city of Mexico... When I told the chieftains who were with me how well impressed I was with Cíbola, they told me that it was the smallest of seven cities, and that Totoneac is much larger and better than all the seven, that it has so many houses and people that there is no end to it.³

Regardless of the gross inaccuracy of Fray Marcos' account, this gives insight into the mindset of those early Spanish explorers, eager to embellish their own discoveries. It also explains the high expectations for wealth of early adventurers who made the long trek to New Mexico. Needless to say, Cíbola was nowhere near the size of Mexico City, and the great city of Totoneac proved to be pure myth.

The original settlers of the first Spanish colony in New Mexico, established in 1598, came anticipating the fulfillment of these wild

1 Knaut, Andrew L. *The Pueblo Revolt of 1680: Conquest and Resistance in Seventeenth-century New Mexico*. (Norman: University of Oklahoma Press, hardcover 1995), 21-22.

2 Hammond, George P. and Agapito Rey, *Don Juan de Oñate, Colonizer of New Mexico 1595-1628*, 2 vols., (The University of New Mexico Press, 1953), 2:784, 860-861.

3 Baldwin, Percy M., "Fray Marcos de Niza's Relación," *New Mexico Historical Review*, I (April 1926):193-223.

expectations. The reality could not have been more different. Captain Gaspar Pérez de Villagrà was a member of this initial *entrada*. He described, somewhat melodramatically, his adventures in a series of epic poems. He illustrated quite floridly the hardships of colonial New Mexican life:

...If they are to have pleasure in eating
 They break the earth, cultivate it
 Like famed and skilled laborers...
 ...They live and pass almost all their time
 Out in the field as though they were brute beasts,
 Subjected to the rigor of the burning sun,
 Of water, wind, of nakedness and cold,
 Of hunger, thirst, weariness, and fatigue...⁴

Life in New Mexico was very different from the lofty descriptions that initially lured settlers so far from Spanish civilization. Settlers resorted to demanding corn from the already starving Pueblos. Impoverished, natives had to be threatened, beaten, or even killed in order to procure grain.⁵ Gaspar de Zúñiga y Acevedo, Count of Monterrey and Viceroy of New Spain, had direct authority over the governor of New Mexico.⁶ His unfavorable view of the fledgling province was made clear in an undated letter written to the king regarding the economical realities of New Mexico:

...They have nothing to sell from which they can obtain cash, and poverty is everywhere. It therefore seems to me that these conditions, especially the lack of money, will discourage anyone from going there, or, if already settled, would discourage anyone from remaining there.

In the Indies no one is content with only food and clothing; it would be difficult therefore, to take anyone voluntarily from New Spain to New Mexico, especially when both of these things are so limited there, for neither will the food be lavish nor the clothing dignified. Thus I believe that in order to establish permanent

4 Pérez de Villagrà, Gaspar, *Historia de la Nueva México, 1610*, Spanish/English edition, translated and edited by Miguel Encinias, Alfred Rodriguez, and Joseph P. Sanchez, 1st Edition. (Albuquerque, New Mexico: University of New Mexico press, 1992), 185.

5 Hammond, 2:674.

6 Ibid., 2:585.

Christian settlements it would have to be with settlers forced to live there, although at present I cannot see that the province has sufficient substance to justify this plan....⁷

Coinage was expensive to transport, and the lack of any producing ore mines made minting impossible.⁸ Therefore, the residents of New Mexico were forced to use a system of barter, rendering the accumulation of wealth very difficult. A trade invoice for goods shipped by Governor Don Luis de Rosas from Santa Fe in 1638 gives scholars insight into the New Mexican economy. 2000 yards of coarse woolen cloth, 408 blankets, about 100 pieces of tailored wool clothing, about the same number of drapes and hangings, buffalo and antelope skins, 57 bushels of pine nuts, and 900 candles were a far cry from the wealth of New Spain.⁹

The first governor of New Mexico, Don Juan de Oñate, was easily one of the most controversial figures of Spanish New Mexico for his infamous cruelty at Acoma Pueblo. He believed that "the greatest force we [Spaniards] possess...to defend our friends and ourselves is the prestige of the Spanish nation, by fear of which the Indians have been kept in check."¹⁰ He realized that the only way for the Spanish to maintain control over the vastly superior numbers of native inhabitants in New Mexico was by keeping them in awe of their "prestige." However, over the span of three generations following initial Spanish colonization, the standard for what constituted a "Spaniard" in New Mexico changed dramatically. In 1598, Captain Luis Gasco de Velasco volunteered to join the conquest of New Mexico. He was a Native of Spain and red bearded.¹¹ An inventory of his possessions to be taken on the expedition demonstrates the European characteristics of the initial Spanish captain:

First, he exhibited and brought before his lordship a standard of figured white Castilian silk, with fringes and trimmings of gold and crimson silk...

Item: A silver lance, in its handle, for the exercise of his office as

7 Ibid., 2:914.

8 Ibid., 2:913.

9 "A Trade Invoice of 1638," *New Mexico Historical Review*, X No. 3 (July 1935): 242-246, New Mexico Office of the State Historian, <http://www.newmexicohistory.org/filedetails.php?fileID=24111> (accessed March 17, 2010).

10 Hammond, 1:456.

11 Ibid., 1:289.

captain, with tassels of gold and yellow and purple silk.

Item: Three sets of horse armor of buckskin, lined with undressed leather...

Item: A sword and gilded dagger with their waist belts stitched with purple, yellow, and white silk.

Item: One suit of blue Italian velvet trimmed with wide gold *pasementerie*, consisting of doublet, breeches, and green silk stockings with blue garters with points of gold lace...

Item: Another suit of Chinese flowered silk...

Item: Eight pairs of Cordovan leather boots, six white pairs and four black, and four pairs of laced gaiters.

Item: Two hats, one black, trimmed around the crown with a silver cord, with black, purple, and white feathers and the other gray, with yellow and purple feathers.¹²

Velasco's full manifest was three pages in length. Its extravagance deeply contrasts the inventory of another captain who was brought before the Inquisition of Mexico City some sixty-five years later on charges of heresy. Nicolás de Aguilar was a mestizo, or a person of mixed European and Indian blood, who had held several various leadership positions within the Spanish military in New Mexico, including field captain. He appeared before his inquisitors wearing flannel trousers and a woollen shirt and stockings, all frayed. His shoes were made of buckskin. They described him as a man "of large body, coarse, and somewhat brown." A small wooden box contained all of his possessions. Among his personal items were:

3. A doublet of buff and black wool, badly worn, with cotton sleeves...

5. Item. An old cotton shirt...

6. Item. Another cloth shirt, worn out...

12. One pair of shoes of Cordovan leather, worn out.

13. A book, entitled, "Catechism in the Castilian and Timuquana languages." Inside of this was another very small book, entitled, "Instructions for examining the conscience."

14. A bar of soap and a little *alucema* (lavender) wrapped in an

old black rag.

15. An antelope skin muffler lined with yellow linen.

16. A cloth containing, apparently, roots of dry grass, which he said they call bear grass in New Mexico, used for curing fevers.

21. A rosary strung on *coyole* wire, having large beads, and a little silver cross...¹³

Many of the original colonists had died or returned to Mexico. Those who remained had intermarried with natives, producing a new class of mestizos. The European finery of New Mexico's original noble Spanish settlers gave way to homespun wool and buckskin. Chinese silk and embroidered linen gave way to worn out cotton and buffalo robes. The lofty expectations of Spanish conquerors gave way to the harsh realities of the Southwest. By the time of the fateful revolt of 1680, Oñate's vision of Spanish "prestige" was greatly diminished. When the true conditions in New Mexico became clear to the Spanish public, immigration ground to a halt. As of 1609, after a major desertion to be described later, there were only about sixty people distinguished as Spanish in the entire province.¹⁴ Seventy-one years later, after their expulsion from New Mexico, the refugees were counted at just fewer than 2,000. When Indian allies, slaves, servants, and Natives married to Spaniards are taken into account, Andrew Knaut estimated that the total Spanish population of New Mexico numbered below 1,000,¹⁵ a net gain of less than 750 people over an eighty year period. Thus was the economic reality of life in seventeenth-century New Mexico.

Geographical Realities of Seventeenth-Century New Mexico

New Mexico is a high altitude desert. Its climate is foreboding year round. It was a very difficult place to build a permanent settlement. The standard of living the Pueblos maintained for thousands of years before European contact was therefore quite remarkable. Native peoples developed this fragile balance with the land over millennia, but it only took a matter of years for that balance to be shattered and destroyed. In

13 Ibid., 3:139.

14 Hammond, 2:1076-1077.

15 Knaut, 132-135.

order to survive years of drought, they had large underground granaries filled with corn to last through years of famine. This was a necessary part of life in New Mexico. With the arrival of the Spanish, and their demands of tribute in the form of maize, their precious stores were diminished. This left them with no means to sustain their communities in times of famine. The Spanish fared little better. Fray Francisco de San Miguel attested:

The fact is that in order to induce the Indians to furnish corn for food, it has been necessary to torture the chieftains, even to hanging and killing them. We find ourselves in extreme need of food and see the natives starving to death, eating whatever filth there is in the fields, even the twigs from the trees, dirt, coal, and ashes... If we stay any longer, the natives and all of us here will perish of hunger, cold, and nakedness.¹⁶

In 1601, various captains and soldiers of Don Juan Oñate arrived in Mexico City with letters and reports from the governor. Don Francisco de Valverde Mercado was given a commission by the viceroy of New Spain to interview these men under oath to ascertain the conditions of the settlement of New Mexico.¹⁷ Mercado described an account given by Ginés Herrera Horta, Oñate's chief auditor and legal assessor¹⁸:

At the time that this witness and the other people returned to New Spain, those who remained displayed much feeling by weeping and complaining. The reason for this was the cold and harshness of the land, for the winter lasts eight months, and the cold is so intense that, as he has stated, the rivers freeze over and the Spaniards are always shivering by the fire...Furthermore there are an infinite number of field mice, which breed a species of lice, the pain from whose sting lasts for almost twenty-four hours. The mice eat the chile and peppers so fast that if the latter are not harvested in time the mice do not leave anything; they do not eat cheese.

He added that it was commonly lamented within the colony that there were "*Ocho meses de invierno y cuatro de infierno*" ("Eight months

16 Hammond, 2:674.

17 Ibid., 2:623.

18 Ibid., 2:643.

of winter and four of hell.”¹⁹

The only source of heat during the winter came from firewood cut from cottonwood trees. As the trees were scarce, so was the firewood.²⁰ People were forced to travel miles in search of wood. Finally, Santa Fe, the capital itself, was built on a swamp causing major health problems for its inhabitants.²¹

Another geographical factor that worked mightily against the success of the New Mexican enterprise was its remoteness in relation to New Spain. The distance from Mexico City to Santa Fe was an ominous 1,500 miles. The first half of the journey took place on relatively heavily traveled roads. Santa Bárbara, a small mining town in Northern Nueva Vizcaya, was the halfway point. This was the final opportunity to rest and get supplies. From there, travelers left European civilization and traversed the final 750 miles to Santa Fe through treacherous and untamed territory.²² This was the only way to get goods to and from New Mexico. The round trip for a supply train took over a year and was started in late fall, in order to avoid the searing summer heat during the most forbidding leg of the journey from Santa Bárbara to Santa Fe.²³ If the train was delayed, as was often the case, it meant that the journey was postponed until the following fall. Due to these complications, colonists could expect to receive a supply train once every three to four years. This not only made it difficult to obtain supplies and provisions from New Spain, but also had a negative psychological impact on settlers, isolated from the rest of the Spanish world. In 1630, Fray Alonso de Benavides lamented this:

It has been stipulated and determined that [the convoy] be done punctually every three years...it usually happens that five or six go by without the royal officials' remembering us, and God knows how hard it is for us to ask...five or six years...pass without our knowing anything of the Spanish nation here in New Mexico.²⁴

19 Ibid., 2:656.

20 Ibid.

21 Roberts, David, *The Pueblo Revolt: The Secret Rebellion That Drove the Spaniards Out of the Southwest*. Paperback edition. (New York, NY: Simon & Schuster Paperbacks, 2005), 20.

22 Scholes, 73.

23 Knaut, 126.

24 de Benavides, Alonso, Fray, *Memorial of 1630*. Translated by Peter P. Forrestal. (Washington,

As with many accounts from colonial New Mexico, Benavides' claim was exaggerated. It was possible to make the journey in much less time, and dispatches of mail were sometimes sent and received in a matter of weeks. Bureaucracy, however, guaranteed that there would be no quick resolutions to issues demanding the attention of civic or religious leaders in Mexico City.²⁵

Hostile Native Peoples of Seventeenth-Century New Mexico

Another major concern for the beleaguered colonists of New Mexico was the threat of raiding bands of hostile Indians. Surrounding the sedentary Pueblo tribes were nomadic tribes such as the Apache and Navajo Indians. Before European contact, these tribes had achieved a precarious balance with their environment and the neighboring Pueblos. In times of famine, they were able to trade for grain with the Pueblos. When they raided, they did so on foot, limiting the scope and scale of their effect. When the Spanish arrived in New Mexico, both secular and religious demands for tribute depleted the Pueblo grain supply. This had an equally devastating effect on the Pueblos and their Athapaskan neighbors. With the introduction of the horse, these nomadic tribes became more dependent on newly intensified raids against outlying villages.²⁶ Travelers were especially vulnerable. Fray Benavides described the necessary precautions taken to avoid attacks:

Whenever we go through their lands, if they see we are few in number, they attack us face to face and do all the damage they can. For this reason it is impossible to pass there with fewer than twelve men on horseback, all very well armed. Even then, it is necessary to proceed cautiously and in the early part of the night a fire is lighted somewhere to divert their attention, while we advance as far as possible beyond it. Even when they see a large force they lie in ambush by night and at least do whatever harm they can to the horses.²⁷

During times of famine, the raids became bolder and more frequent. Franciscan missions filled with precious food made tempting

D.C.: Academy of American Franciscan History, 1954), 12.

25 Scholes, 73.

26 Ibid., 84.

27 Ibid., 10.

targets. Fray Juan Bernal voiced the paranoid terror of a particularly violent period of famine in 1669:

The whole land is at war with the widespread heathen nation of the Apache Indians, who kill all the Christian Indians they can find and encounter. No road is safe; everyone travels at risk of his life, for the heathen traverse them all, being courageous and brave, and they hurl themselves at danger like people who know no God nor that there is any hell.²⁸

Desertion and Abandonment

With all of these factors combined against the fledgling province, it quickly became apparent to all, especially those in New Mexico, that this would not be another Mexico. Throughout the first decade of Spanish settlement, the complete abandonment of the colony was a very real possibility.

Twenty-four different governors ruled in New Mexico from 1598 to 1680.²⁹ It was the governor's task to administer justice, defend the province militarily, foster and protect the missions, and protect the Pueblos from exploitation. He was at once the province's political leader, commander-in-chief, chief legislator, and most important judicial officer. These powers were necessary for managing an isolated frontier province and maintaining rule of law and discipline. Unfortunately, these powers were often abused by self-seeking officials.³⁰ As a group, these men could not resist the temptation to squeeze profits out of their office,³¹ despite the fact that royal legislation forbade the governors to engage in business or trade.³² Almost without exception, governors were interested in using Indians for their own profits, and instead of protecting Natives, were often the worst exploiters.³³ Upon leaving office in 1661, Governor Bernardo López de Mendizábal was accused of owing twenty-four

28 Hackett, 3:299.

29 Scholes, 74.

30 Ibid., 75.

31 Ibid., 87.

32 Ibid., 82.

33 Ibid., 81.

hundred pesos to Indians for over nineteen thousand days of labor.³⁴ His successor, Diego de Peñalosa, even sent several Apache boys and girls back to Mexico City as gifts.³⁵

Members of the Franciscan Order were living in a zealot's paradise. Tribute to the Roman Catholic Church meant that there was always food in the missions. They also controlled the wagon supply trains for reasons addressed later. They were surrounded by thousands of poor, starving heathen souls, ready for harvest. If perchance they were killed by hostile Indians, they died a martyr's death, the dream of many a Franciscan. Friars were actually drawn to New Mexico, due to its reputation as a region where martyrdom was easily achieved.³⁶ Of the one hundred or so friars who served in New Mexico throughout the seventeenth century, 49 died as martyrs.³⁷

The common man fulfilled the role of soldier-citizen, as there was no paid garrison in New Mexico prior to 1680. They received no salary from the Crown, but instead were granted *encomiendas*, or payment in Indian labor. The *encomienda* system was administered by the governor. This labor was generally inadequate for a comfortable living, however, so *encomenderos* often supplemented their incomes by farming and raising stock.³⁸ Agricultural enterprises also gave rise to major issues dealing with land and water rights. At the time of the conquest, the Pueblos were already in possession of much of the most arable land. In policy, if not in practice, the Spanish were forbidden to encroach upon the Pueblos and their communal holdings. Much land, otherwise ideal for agriculture, was located outside of the protection of the settlements, leaving it vulnerable to attacks by Apaches. The friars were quick to denounce encroachment on Pueblo lands, but they themselves had prime land within the pueblos where their missions were located. This resulted in bitter conflict between civil and ecclesiastical jurisdictions.³⁹ In 1639, the *cabildo* or city council of Santa Fe appealed to the viceroy, stating that the friars had more stock

34 Ibid., 82.

35 Ibid., 87.

36 Gutiérrez, Ramón A. *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500-1846*. (Stanford, CA: Stanford University Press, 1991), 128-129.

37 Ibid.

38 Scholes, 78.

39 Ibid., 106-107.

than the citizens. They claimed that each mission friar had one to two thousand sheep, whereas there were few common men who had more than one hundred.⁴⁰ Private dwellings of these men and their families were one-story adobe and stone buildings of a few rooms.⁴¹

During the initial decade after the conquest, the colony was in a particularly impoverished state. The state of affairs was so bleak, in fact, that many of its citizens began clamoring for its complete abandonment. In September 1601, Lieutenant Governor Francisco de Sosa Peñalosa and the disheartened Spanish settlers held a meeting to discuss the possible abandonment of the New Mexican province. Several priests testified to the abject poverty in the land. One such man, Fray Francisco de Zamora, described how the Spanish had "[taken] away from [the Pueblos] by force all the food that they had gathered for many years," among many other grave injuries, and then further explained:

All of [these things] have not been enough to enable the Spaniards to avoid constant and excessive hunger and nakedness...it seems likely that we shall all die of hunger and exposure at the hands of our enemies, particularly now that the land is reduced to extreme desolation. Therefore, it is [my] opinion...that this camp move in its entirety in order that we shall not all perish, particularly the women and innocent children.⁴²

Captain Alonso Sánchez served in New Mexico for four years, participating in all of the *entradas*, and explorations in search of possible wealth. He too became disenchanted with life in New Mexico:

...[I have] learned...that [New Mexico] will not render any benefit to the king...nor is there any certain hope that there is gold or silver in it.

For this reason and because of the extreme sterility of the land, [my] family has suffered much privation, being without clothes for the inclement climate of the country...[I have] endured all until now, when it reached the point that the land is without food, because of the fact that it was a year without rains. In consideration of what [I have] stated and that [I] cannot support [myself] here, [I

40 Ibid., 107-108.

41 Ibid., 102.

42 Hammond, 2:675-676.

entreat] the lieutenant governor...to grant [my family] permission to leave the land. [We] will be satisfied to leave in the nakedness and extreme poverty that [I have] described....⁴³

Following the meeting, the lieutenant governor wrote to the viceroy, promising that, "If succor does not reach us within six months we will be compelled to abandon this land, as we are determined to do so."⁴⁴ The frustrated settlers maintained that:

...they had received reports, information, and letters telling of much greatness and riches, and that they had been defrauded. They claimed that they had consumed their estates and had been deprived of the tranquility they had enjoyed in New Spain.⁴⁵

Shortly thereafter, roughly two thirds of the colonists fled the province while Governor Oñate was away on a military expedition to the Great Plains in search of rumored bison and riches. They preferred to take their chances with charges of desertion rather than remain in New Mexico.⁴⁶ Upon his return, Oñate was outraged by this mass exodus. To him, desertion was tantamount to treason. He ordered the refugees pursued, under a sentence of beheading, but it was too late.⁴⁷ The refugees returned to Mexico with shocking accusations against Oñate. Faced with the controversies of his misrepresentations of conditions in New Mexico, and his heavy-handed treatment of Indians, Oñate resigned his governorship.⁴⁸

Finally, on September 13, 1608, the Viceroy of New Spain and the Council of the Indies officially recommended that the colony of New Mexico be abandoned.

Since your majesty realizes how unfruitful it would be to continue the discovery and pacification of New Mexico...because all of that land is of little value, and because the aim of Don Juan and of those who joined him in the enterprise was its prolongation for their private aims...the residents and soldiers [request] permission

43 Ibid., 2:684.

44 Ibid., 2:690-691.

45 Ibid., 2:656.

46 Ibid., 2:672-689.

47 Roberts, 95.

48 Knaut, 52.

to leave the land or that they be provided with adequate support, both of soldiers and provisions, to enable them to remain there.

...It must be some six hundred leagues to the interior of the land, without any gold or silver mines or anything else to attract Spanish settlers. Furthermore, if the colony should be maintained it would be difficult and expensive to support it...even then [those reinforcements] would not remain voluntarily owing to the poverty of the land and the little promise it holds for those who settle there permanently.

In view of these and many other reasons, it seemed to the viceroy... that the New Mexico should be abandoned....⁴⁹

The Franciscan Enterprise

During these early years, the religious conversion of the Pueblos was difficult. Their complex languages differed from village to village. Due to the hardships brought on by the Spanish, the natives often resented Catholicism. As of 1609, results of Franciscan efforts were meager at best. In 1607, Oñate estimated the number of Christianized Indians at six hundred.⁵⁰ Yet just as the colony prepared to return to New Spain, it was reported that some 7,000 natives had converted to Christianity. This revelation changed everything.

...In view of...the news about the seven thousand converted Indians and the others who were clamoring for baptism, which is the aim that should prevail in these discoveries without regard to temporal considerations, it has seemed proper to await [the Council's] decision, either changing or confirming the previous order [of abandonment].⁵¹

It is widely believed by modern historians that these numbers were greatly exaggerated, and they have surmised that the Franciscans inflated said numbers for their own gain. If this was the case, the report had the intended effect. In doing so, the Franciscans changed the face of New Mexican history forever. The king could not in good conscience condone the abandonment of 7,000 Christian Indians. In order to demonstrate his

49 Hammond, 2:1061-1062.

50 Ibid., 1044.

51 Ibid., 2:1068.

piety, the king decided to maintain the colony at his own cost, the primary reason being the salvation of Pueblo souls. This effectively infused the Franciscan order with added power and authority. Their mission was the reason for New Mexico's existence. The supply trains were to be financed by the crown for Franciscan purposes. This development resulted in another seventy years of Spanish rule in the borderlands; one that was marked with intense church-state conflict.

Political Unrest in Seventeenth-Century New Mexico

From its inception, New Mexico was the battleground for two powerful entities: The Franciscans and the crown-appointed governors. Puebloans and common Spaniards alike were caught in the crossfire as the two vied for power and influence over the fledgling colony. With Oñate vanquished and the crown's renewed support after the report of 7,000 new converts, the Franciscans were able to consolidate their power. Soon a cycle began to emerge that continued until the revolt. In an attempt to check Franciscan power, the governor either encouraged disobedience to the friars, or enacted legislation such as limiting the amount of Indian labor that could be required by the Church. The Church, in turn, threatened and in some cases carried out excommunications and arrests.⁵²

After Oñate's successor, Peralta, was arrested "in the name of the Inquisition," the Franciscan Prelate Fray Isidro Ordóñez became the supreme ruler of New Mexico. During his months of reign over the province, one witness wrote, "Excommunications were rained down... Existence in the villa was a hell."⁵³

New Mexico's fourth governor, Juan de Eulate, encouraged Pueblos to perform their old rituals.⁵⁴ He also called a halt to the building of churches, under the premise that the demands on Puebloan labor were inhumane. This liberal policy towards Indians was anything but altruistic, however. Eulate himself was guilty of several abuses against Natives, including slavery.⁵⁵ Rather, he hoped to gain favor with Pueblos so they would side with him during disputes with the clergy. He announced that

52 Gutiérrez, 126-127.

53 Roberts, 101.

54 Scholes, 80.

55 *Ibid.*, 85.

"the King was his ruler and he did not have to acknowledge the authority of the Pope or the Church."⁵⁶ Later, in 1636, Fray Antonio de Arteaga proclaimed in a sermon that "all Catholic princes were subject to the laws of the church...any man who refused such obedience would be a heretic." The then governor Luis de Rosas responded, shouting, "Shut up Father, what you say is a lie."⁵⁷ No doubt the subjects of New Mexico were torn. Both factions were corrupted by their thirst for power and authority; the prestige of the Spanish occupation suffered the consequences.

In all, three governors were eventually excommunicated, and four were arrested and confined. Two of these governors, Bernardo López de Mendizábal, and Diego de Peñalosa eventually stood trial before the Inquisition in Mexico City.⁵⁸ Civil leaders and regular citizens alike were at risk of being brought before the tribunal of the Inquisition in New Mexico, established in 1626, for actions perceived as heretical.⁵⁹

As the comedy of errors that was the Spanish occupation of New Mexico neared its culmination, the native peoples of New Mexico seized the opportunity to overthrow their dysfunctional conquerors. On the great day of reckoning, August 10, 1680, when the unified Pueblo tribes set their revolt in motion, twenty-one of the thirty-three Franciscan friars were martyred.⁶⁰ The Franciscan mission in New Mexico was proven to be an utter failure as their converts turned on them, razed their chapels to the ground, desecrated their idols, and left their naked corpses to rot in the open sun.

The Stunned Spanish Retreat

Upon hearing of the massive-scale revolt, New Mexican Governor Otermín gathered the survivors in Santa Fe. Surprisingly, despite all of their injuries, and all of their obvious resentment towards Spanish rule, he was completely stunned that the Pueblos revolted. The hapless state of affairs was such that the Spanish were unaware of the impending massacre until it was much too late. With no hope of victory against the

56 Roberts, 112-113.

57 Ibid., 116.

58 Knaut, 92.

59 Scholes, 104.

60 Otermín, Antonio de, *Documentos Que Sobre El Levantamiento De Los Indios Del Año 1680* (Mexico City, Mexico: Vargass Rea., 1947), 141-148.

thousands of natives that gathered outside their besieged walls, Otermín was presented with two crosses, one white and one red. The Pueblo leaders appropriately chose the beloved symbols of their vanquished Christian oppressors. The white signified surrender and withdrawal of all the Spanish from New Mexico. The red signified war and death. Following a failed attempt to drive off the Pueblo warriors in which Otermín himself was seriously wounded,⁶¹ he chose the former. The roughly 1,000 Spanish survivors, along with their native sympathizers, began the long march to Mexico and disgrace. Aided by the relatively undesirable conditions of New Mexico, the harsh climate, lack of wealth, and the intense church-state conflict that had pitted Spanish authorities against one another, the Pueblos and their allies had pulled off the unthinkable. They had defeated Spain.

The Re-entrada

Otermín made a feeble attempt to retake New Mexico the following year. Only six soldiers who had fled the previous year joined in the attempt.⁶² It was a failure. It was more than a decade after their expulsion from the territory that the Spanish began the re-conquest of New Mexico. By this time, the Indian alliances that had defeated them had crumbled, and with renewed military strength the Spanish reclaimed the province. Their reason for re-staking their claim to the borderlands was primarily strategic.

In 1682, Robert Cavelier, Sieur de La Salle, claimed the expansive Mississippi Drainage for France. Rumors abounded that he would build fortresses and recruit massive armies of Indian allies for an attack on Spanish interests. Unaware that the French expedition had ended in failure, and La Salle had been ambushed and murdered by his own men, it was deemed of great importance to Spain's national security to retake New Mexico.⁶³ On October 4, 1693, newly appointed Governor Diego de Vargas struck north for Santa Fe at the head of a force of one hundred soldiers.⁶⁴ Never again were natives of New Mexico independent of

61 Knaut, 11.

62 Roberts, 135.

63 Ibid., 164.

64 Knaut, 181.

European rule.

The Pueblo Revolt and the events surrounding it were extremely important in shaping the history of the Southwest. The success of the revolt can be attributed in part to the resilience of Pueblo culture and their relatively strong tribal governments and alliances. Of equal or greater importance to the success of the revolt, however, was the hapless state of affairs within the Spanish Province of New Mexico. Economics, geography, and politics each played a major part in the eventual demise of the Spanish occupation. Ultimately, the Pueblo revolt was successful because the Spanish occupation of New Mexico was a miserable failure.

Biographical Notes

Dan Jackson is a general history major in his senior year at Utah Valley University. He is currently enjoying work on a summer internship with Professor David Wilson, creating a community portrait of the Northern Cheyenne. Dan's study of Pueblo-Spanish relations in the Borderlands was inspired by his love for the American Southwest, Native American cultures, and the Spanish language. He hopes to continue his research at the graduate level in the future. Dan is supported by a wonderful family, and his brilliant wife Lorraine.

CILICIAN PIRATES

David Hullinger

Ancient pirates during the reign of the Greeks engaged in thievery and war-like aggression toward coastal towns and other vessels, and were not affiliated with any government. During the second half of the second century BC dwelling in the south coastal region of Asia Minor, were a group known as the Cilicians who were to become the most well-known pirates in the Mediterranean. Cilicia is known today as modern-day Turkey, but in ancient times it was a haven for pirate strongholds.¹ The Cilician pirates terrorized the Mediterranean for a good portion of the second century BC, and they became so notorious that the name "Cilician" became synonymous with "pirate."²

The first of two factors that contributed to the coming about of piracy among the Cilicians was the disintegration of the Seleucid Empire (312-63BC). The Seleucid Empire was the eastern part of the preceding Macedonian Empire of Alexander the Great. After the Seleucid Empire's decay, there was no one willing to police the seas. An analysis of the Cilician Pirates was written by historian Henry Ormerod:

The original mistake of Roman policy, which permitted piracy to become established on these coasts, was committed at the time of the settlement with Antiochus the Great, when Rome cared little as yet for the districts outside Taurus. The powers which had hitherto policed the Levant and controlled the districts where piracy threatened, had been weakened or destroyed, and Rome had failed to create a standing fleet to carry on the work (Ormerod 1997, 99). Simply put, the Romans did not have the resources nor desire to patrol the vast Mediterranean outside of its realm as the preceding Empires had done.

The second reason piracy came about in the Mediterranean was that the Roman elites needed to purchase slaves to work on their large plantations. The main trade of pirates was slavery. Roman Plantation owners and merchants purchased a large number of slaves, and Sicily was notorious for its slave plantations, which were owned by Romans.

1 Henry Ormerod, *Piracy in the Ancient World: An Essay in Mediterranean History*. 2nd ed. (Baltimore: John Hopkins University Press, 1997) 190.

2 Ellen Semple, "Pirate Coasts of the Mediterranean Sea," *Geographical Review* 2, no.2 (1916), 134-151.

Cilician pirate attacks on the coasts provided slaves for the slave markets of Crete and throughout the Aegean sea. In 104 BC, Rome wore a façade of retaliation to piracy with a navy commanded by Marcus Antonius in which little was actually done to deter piracy. Rome needed pirates, and as long as they provided slaves, Roman aristocrats and government officials were willing to look the other way.³

As the Roman Empire continued to grow, it became difficult to control its vast regions. Consequently, the Romans left the sea unguarded and the pirates quickly grew in size and force and began to hinder more of Roman commerce. The Roman elites began to feel their own finances being threatened, and around 100 BC, the pirate threat became so serious that the Roman senate finally took action by passing laws to impede pirate movements throughout the Mediterranean. One law denied pirate ships access to any port encompassed in the empire.⁴ Not only did this law fail miserably, but it actually stimulated more piracy throughout Rome's empire. By establishing these laws, the Romans forced the pirates to venture further into the Mediterranean. Soon coastal towns and merchant trade vessels in the western Mediterranean came under attack by the expanding number of pirates, and coastal villagers became fearful of being carried away as slaves.⁵

A general fear of pirates was rapidly growing throughout the coastal regions of the Roman Empire. Modern archaeologists have uncovered and translated an inscription in ancient Syedra that depicts the feelings of the Romans concerning piracy.⁶ The inscription reads as follows:

The Pamphylians of Syedra, who share common lands, living on the fertile land of mixed peoples, offer a sacrifice, setting up on the summit of the city an image of Ares the bloodstained slayer of men, held in the iron chains of Hermes. On his other side may Justice, laying down the law, give judgement upon him. And may he become like one who begs. For, in this way, he will be

3 Angus Konstam and Roger M. Kean, *Pirates: Predators of the Seas* (New York : Sky Horse Publishing, 2007) 30-43.

4 Ralph T. Ward, *Pirates in History* (Baltimore: York Press Inc, 1974) 37-39.

5 Konstam, 41.

6 Philip de Souza "Romans and Pirates in a late Hellenistic Oracle from Pamphylia," *The Classic Quarterly* 47, no. 2 (Cambridge University Press, 1997) 477-481.

at peace with you, driving the hostile horde far away from the fatherland, and he will call forth the prosperity you have greatly implored. And, in addition, you should take up the fierce battle, either driving away, or binding in unbreakable chains, and do not, through fear, pay a terrible penalty because of the pirates, in this way you will certainly escape all punishment. (De Souza 1997, 477)

The general meaning of the inscription is simple, it states that those throughout the Roman Empire would deny piracy and fight it, or they would be punished. By this point in history, it is apparent that the government greatly frowned upon piracy because it was hindering commerce.

While the Cilician Pirates were profiting greatly by plundering the Romans, they discovered they could profit even more by hiring out their services as mercenaries to local entities. During this time period, coastal towns often left the defending of their cities to hired foreign mercenaries. In 89 BC the Roman sector of Asia was invaded by King Mithridates of Pontus. Mithridates had a standing land army, however he was navy-less. To invade the island of Rhodes and transport his troops and supplies, he made an alliance with the Cilician pirates. While this new navy of Mithridates prospered, his land forces were not great enough to repel the Roman army. By 85 BC Asia returned to Roman rule. However, this rebellion did not end piracy in the Mediterranean.⁷

Piracy continued to grow in the Mediterranean, which affected the life of Julius Caesar. Travel was risky at this time, and all travelers had to do so with caution. Before Caesar became Emperor, he was aboard a ship in 75 BC on his way to Rhodes to study with a great scholar of the time, when his ship was attacked by pirates. Caesar was captured, taken prisoner, and his life was put up for ransom. The Cilician pirates apparently did not understand the merit of whom exactly they had captured. When Caesar heard how much the pirates wanted for his ransom, he was both amused and offended. He told the pirates that he was worth much more, and that they should raise the price of his ransom. During his abduction, Caesar often joked with his captors, and vowed that when he was freed he would have them all crucified. As soon as the ransom was paid, and

Caesar was freed, he immediately began working on being true to his promise. Caesar assembled a small fleet and returned to the place where the Cilician pirates had held him captive. The pirates were still there and Caesar's fleet captured them with ease. Roman law stated that pirates were to be executed as publicly as possible to deter others from the act of piracy. Soon after the Cilician pirates' capture, Caesar did in fact have them all crucified.⁸

Finally, the expansion of piracy throughout the Mediterranean reached its height when Cilician pirates attacked Rome's own port. The people of Rome were outraged by the inefficiency of the government, and that they had not taken more action to control the pirates. The shipments of grain to the city were interrupted and Rome's citizens were becoming increasingly concerned.⁹ Because Rome received most of its grain to sustain its capitol from Sicily, Northern Africa, and Egypt. Whoever controlled the grain supply controlled the city of Rome.

Rome would take extreme measures to control the Cilician pirate uprising. Rome called upon Gnaceus Pompeius Magnus also known as Pompey the Great. He was known to be the best military commander of his time. Pompey was granted extreme measures in order to subdue the impending threat of the Cilician pirates. The senate gave him 6000 talents of gold, 500 ships, 120,000 troops, and the right to raise militias up to fifty miles off any coast.¹⁰ Before Pompey was appointed to command, the price of wheat and other commodities was skyrocketing. After the law was passed, giving Pompey extraordinary powers, the prices immediately stabilized. Therefore, the people of Rome trusted that their favorite general could end the pirate threat.

Pompey began his campaign in 67 BC with a large army. With such a large fleet he was able to split it into thirteen smaller fleets, each in charge of different sections of the Mediterranean. Sixty ships remained under his direct command. He used this unit as a mobile task force to drive pirate activity towards the territorial fleets of his commanders. In only three months, the pirates in the western Mediterranean were completely

8 Allen M. Ward "Caesar and the Pirates," *Classical Philology* 70.4 (The University of Chicago Press, 1975) 267-268.

9 Ward, Ralph T., 40.

10 Konstm, 41.

destroyed. With the west secured, Pompey turned towards Cilicia. Quickly, and with little resistance, the Cilician pirate bases and defenses were eliminated. Pompey relocated the pirates that had not been killed further inland and offered them lives as farmers. This was an alternative opportunity away from piracy and an unusual act of mercy by a Roman general, especially for this time period. Within three months, Pompey had completed the task appointed him and cleared the Mediterranean of the notorious Cilician pirates.¹¹ After nearly half a century of piracy the Cilician pirates had finally been eradicated. The greatest threat of piracy was over for the Romans and the Cilicians remain the most infamous of pirates during the Roman Empire.

11 Ibid, 42-43

Biographical Notes

David Hullinger is the second of four children and was born in Dallas Texas, but raised in Cedar Hills, Utah. He is a musician, song writer, and recording artist. He is currently an Elementary Education major at Utah Valley University and is planning on receiving a Masters of Educational Administration.

The Role of Virtue in Preserving Liberty

Jeremy Hurren

When Thomas Jefferson penned the Declaration of Independence in 1776, he wrote that “men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.”

Much has been made of this right to liberty. It is one of the founding principles behind the United States. The Constitution was written in part to preserve the ideal of liberty among the American people. The American Founders were influenced in their efforts to preserve liberty by many authors that came before them. Scholars such as Bernard Bailyn, Caroline Roberts, Garry Willis, J. G. A. Pocock, and Gordon S. Wood have all devoted considerable effort to determining which sources were influential on the Founders’ thinking.¹ For the purposes of this paper, we will examine a few authors selected from those that are thought to be the most influential. We will see that the authors most influential on the American Founders believed that virtue was necessary to preserve liberty.

Liberty and virtue do not appear, at first glance, to belong together. Liberty is concerned with people being free to do whatever they please, while virtue is concerned with people doing as they morally ought. But, while an enslaved people has no requirement for virtue, being forced in every aspect of their lives, a free people, having the liberty to do anything they desire, require some inner guidance in the correct use of that freedom.²

The definition of the word virtue in this context is an important one. For thousands of years, societies have tried to determine how men ought to live their lives. Aristotle held that moral virtues were character states at the mean between extremes. Socrates taught the “cardinal virtues” of knowledge, justice, courage, temperance, and holiness.³

1 Vetterli, Richard and Gary Bryner, *In Search of the Republic: Public Virtue and the Roots of American Government*. (Lanham: Roman and Littlefield Publishers, Inc., 1996), 10.

2 Berkowitz, Peter, ed. *Never a Matter of Indifference: Sustaining Virtue in a Free Republic*. (Stanford: Hoover Institution Press, 2003), 3.

3 Socrates. *Protagoras*. Text in public domain, 380 BCE. Available from <http://classics.mit.edu/Plato/protagoras.html>. Accessed March 2009.

The Romans believed in an array of virtues including mercy, justice, dignity, humor, and dutifulness.⁴ Later, Christian and Biblical virtues such as charity and self-restraint become intertwined with the concept of virtue. Algernon Sidney believed that virtue was obedience to the law. In examining virtue's role in preserving liberty, a precise definition is not necessary. Rather, we will see that at least some of these virtues are necessary to maintain liberty, while we avoid seeking an exhaustive list of such virtues.

Baron de Montesquieu is widely regarded as one of the most influential authors on the American Founders. A study of the frequency of citation of European authors in American foundation era literature showed that Montesquieu was cited nearly three times as often as almost any other author (Blackstone being the exception).⁵ In *The Spirit of Laws*, Montesquieu writes at length about virtue, laws, government, and liberty. He rejects, for the purposes of his work, the Christian meaning of virtue, and instead uses the term to refer to a kind of public virtue. He describes this public virtue as being the "love of one's country"⁶ and he also describes it as "moral virtue as it is directed to the public good."⁷

Montesquieu focuses much of his work on describing republican forms of government, and comparing them to other forms. He believed that republic was the form of government most conducive to liberty, writing "liberty is generally said to reside in republics, and to be banished from monarchies."⁸ Montesquieu argues that in a republican form of government, the laws come ultimately from the citizens of the republic. In this form of government, the law cannot restrain the individual – as it can under a monarchy – because the people can change the law. Because the people cannot be restrained by external means, they must be restrained by internal means, i.e., virtue. Because republican government is preferable for preserving liberty, and virtue is necessary to preserving the republic, it follows that a virtuous people are vital to preserving liberty.

Describing what happens in a republic when the people are not

4 Vetterli, 20.

5 McClellan, James, *Liberty, Order, and Justice*. (Indianapolis: Liberty Fund, Inc., 2000), 46.

6 Charles de Secondat, Baron of Montesquieu. *The Spirit of Laws*. Text in public domain, 1752. Available from <http://www.constitution.org/cm/sol.htm>. Accessed March 2009. Preface.

7 Montesquieu, III.

8 Montesquieu, XI.

virtuous, Montesquieu writes:

When virtue is banished, ambition invades the minds of those who are disposed to receive it, and avarice possesses the whole community. The objects of their desires are changed; what they were fond of before has become indifferent; they were free while under the restraint of laws, but they would fain now be free to act against law; and as each citizen is like a slave who has run away from his master, that which was a maxim of equity he calls rigour; that which was a rule of action he styles constraint; and to precaution he gives the name of fear. Frugality, and not the thirst of gain, now passes for avarice. Formerly the wealth of individuals constituted the public treasure; but now this has become the patrimony of private persons. The members of the commonwealth riot on the public spoils, and its strength is only the power of a few, and the licence [sic.] of many.⁹

Montesquieu also believed that liberty had certain limits. In order for liberty to remain liberty, men must learn to constrain themselves to live within the laws. He writes, "In governments, that is, in societies directed by laws, liberty can consist only in the power of doing what we ought to will, and in not being constrained to do what we ought not to will ... Liberty is a right of doing whatever the laws permit, and if a citizen could do what they forbid he would be no longer possessed of liberty, because all his fellow-citizens would have the same power."¹⁰

Montesquieu also argued that virtue itself needed limits. If a man's zeal for virtue were carried to extremes then it would cause him to infringe on the liberty of other men. This idea is also expressed by John Locke in *A Letter Concerning Toleration*, on which more will be written below.

While Montesquieu was clearly supportive of the idea that virtue was a requirement for republican government and liberty, he did not believe that virtue was sufficient to accomplish these ends. Montesquieu was an admirer of the English constitutional system and the structural means that it used. The principles of rule of law and separation of powers were all believed to be additional supports in preserving the liberties of

9 Montesquieu, III.

10 Montesquieu, XI.

the people.¹¹

Another author influential on the American Founders was Algernon Sidney. In studying Sidney's *Discourses Concerning Government*, the theme of virtue being necessary to liberty is easy to see; at one point Sidney states it as plainly as, "liberty cannot be preserved, if the manners of the people are corrupted."¹²

Like Montesquieu, Sidney argues that the republican form of government also requires virtue. Sidney is a proponent of popular sovereignty and uses this in his argument that when power derives from the people, virtue is most necessary: "[A]ll popular and well-mixed governments [republics] ... are ever established by wise and good men, and can never be upheld otherwise than by virtue: The worst men always conspiring against them, they must fall, if the best have not power to preserve them ... [and] unless they be preserved in a great measure free from vices."¹³

Because Sidney is such a strong believer in republicanism, it is no surprise when he refers to Machiavelli's *Discourses of Livy*, a commentary on the Roman republic and another source influential on the Founders. He writes:

Machiavelli discoursing of these matters, finds virtue to be so essentially necessary to the establishment and preservation of liberty, that he thinks it impossible for a corrupted people to set up a good government, or for a tyranny to be introduced if they be virtuous; and makes this conclusion, That where the matter (that is, the body of the people) is not corrupted, tumults and disorders do no hurt; and where it is corrupted, good laws do no good:[2] Which being confirmed by reason and experience, I think no wise man has ever contradicted him."¹⁴

In several places, Sidney appears to be making an argument for a cause-effect reversal of this paper's thesis – namely that liberty produces virtue. This uncovers an intriguing possibility that virtue and liberty are coequal in the relationship, each enforcing and preserving the other. While

11 Montesquieu, XI.

12 Sidney, Algernon, *Discourses Concerning Government*. Text in public domain, 1698. Available from http://www.constitution.org/as/dcg_000.htm. Accessed March 2009. II:25.

13 Sidney, II:19.

14 Sidney, II:11.

pursuing this idea is beyond the scope of this paper, we acknowledge that it is possible, but that it does not diminish the truthfulness of our thesis.

The third source we will examine is John Trenchard and Thomas Gordon's *Cato's Letters*, which had an influential effect on Revolutionary America. In one letter of the series, "Cato" writes about the importance in a republican government of choosing representatives. He pleads with the people to avoid corruption in selecting their representatives, and to avoid selecting men who are not virtuous. He writes, "As you love your liberties exercise your virtue; they depend upon it. Remember the true but dismal picture that I have given you of slavery and arbitrary power; and if you would avoid them, be virtuous, scorn bribes, abhor the man that offers them and expose him."¹⁵

In other places "Cato" seems to be wary of trusting to the virtue of people in protecting liberty. He makes the point that the Greeks jealously watched their leaders because "generosity, self-denial, and private and personal virtues, are in politicks but mere names ... [and] they would not trust to the virtue and moderation of any private subject, capable, by being great, to be mischievous"¹⁶ The implication seems to be that while virtue is a positive step in protecting liberty, it cannot be trusted alone. Similar to what other sources have written, Cato's authors appear to be in favor of structural limits on government in addition to virtue.

In several places Cato's makes the argument – as did Sidney – that virtue is the outcome of liberty. In one letter, the argument is made that the courage of the Romans, "[t]his vast virtue of theirs, and this unconquerable spirit, was not owing to climate or complexion, but to liberty alone."¹⁷ In another letter, "Cato" writes "population, riches, true religion, virtue, magnanimity, arts, sciences, and learning, are the necessary effects and productions of liberty."¹⁸

John Locke is considered one of the most influential authors on the Founders' thinking, particularly in the years leading up to the revolutionary war.¹⁹ Perhaps because Locke is focused on individual

15 Trenchard, John and Thomas Gordon. *Cato's Letters*. Text in public domain, 1720-1723. Available from <http://classicaliberal.tripod.com/cato/>. Accessed March 2009. No. 70.

16 Trenchard, No. 11.

17 Trenchard, No. 65.

18 Trenchard, No. 64.

19 McClellan, 48.

rights such as private property, the link between virtue and liberty is more difficult to find.

In Locke's *Two Treatises on Civil Government*, he writes that each individual should provide "relief out of his plenty" to the needy "where [they] have no means to subsist otherwise." He connects this charitable duty with a right of the needy to "a surplussage of his goods."²⁰ Later, he writes that men in a state of nature have the right and power to do as they see fit for their self-preservation. When men come together in a body politic they delegate this right to the government.²¹ In either of these cases, when the charitable duty of one man to another is not fulfilled, then coercive force may be used by the individual or the government to provide for the needy. The lack of virtue leads directly to the loss of liberty.

For more depth on Locke's views on virtue, we may turn to Locke's *An Essay Concerning Human Understanding* and *Some Thoughts Concerning Education*. Locke freely admits that one great virtue is that men must keep their Compacts. If they do not, then they resort to tyranny, rather than agreement, to achieve their means.²² Locke writes that "the principle of all virtue and excellency lies in a power of denying ourselves the satisfaction of our own desires, where reason does not authorize them."²³ He rejects the notion that virtue can or should come from religion or from fear of punishment, but substitutes in their place the idea that virtue can come from the desire of men for good public opinion.²⁴ Elsewhere, Locke teaches that men may be educated when they are young to desire a good public opinion, and that this will provide the drive for them to serve the public good when they are older. Through their serving of the public good, these men protect liberty for the people.

It is important to note that Locke does not appear to believe that

20 Locke John, *Two Treatises of Government*. Peter Laslett, ed. (Cambridge: Cambridge University Press, 1960), 170.

21 Locke, 352.

22 Locke, John, *An Essay Concerning Human Understanding*. Text in public domain, 1692. Available from <http://www.fordham.edu/halsall/mod/1692locke-education.html>. Accessed April 2009. 5.

23 Locke, John, *Some Thoughts Concerning Education*. Text in public domain, 1692. Available from http://oregonstate.edu/instruct/phl302/texts/locke/locke1/Essay_contents.html. Accessed April 2009. 38.

24 Horwitz, Robert H., *The Moral Foundations of the American Republic*. (Charlottesville: University Press of Virginia, 1986), 146.

the majority of the population must have virtue. Rather, he is focused on “that part which he regards as indispensable for the preservation of the commonwealth.”²⁵ These “gentlemen” form a kind of meritocracy leading the population in the correct direction. Of these men Locke writes, “if those of that rank are by their education once set right, they will quickly bring all the rest into order.”

As mentioned previously, Locke was of the opinion that even virtue should be practiced with temperance. In *A Letter Concerning Toleration*, Locke warns Christians that their zeal for their religion and the virtues it extols may lead them to commit acts of non-virtue against those they desire to help be virtuous. Rather than attempting to encourage virtue in others, Locke instructs each man to “make war upon his own lusts and vices.”²⁶

Now that we have seen what some of these influential sources have written, let us take a look at some modern scholars’ thoughts. Gordon Wood has concluded that while virtue was an important idea to the Founders, by the time the American Constitution was penned “the need for a society of simple, equal, virtuous people no longer seemed so critical.”²⁷ But other scholars have attributed this interpretation to the belief that virtue and self-interest are incompatible. These scholars suggest that like the other sources examined previously, the Founders came to recognize that virtue alone could not be trusted.²⁸ As Madison wrote in Federalist 51, “A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.”

After examining the relevant sources we can now see that virtue, of some sort, is necessary to preserving liberty among a people. The authors who the Founders studied believed and wrote of this. The Founders listened and also believed that virtue was critical to maintaining both liberty and the American Republic.

Liberty cannot survive long without virtue. But neither can liberty

25 Horwitz, 150.

26 Locke, John, *A Letter Concerning Toleration*. Text in public domain, 1689. Available from <http://www.constitution.org/jl/tolerati.htm>. Accessed April 2010.

27 Wood, Gordon S., *The Creation of the American Republic, 1776-1787*. (New York: Norton Library, 1972), 611.

28 Vetterli, 9.

survive long when virtue becomes the law of the land. Rather, virtue and liberty can only survive together. We should seek ways to encourage the people to uphold both of these critical principles in their individual lives and in the public institutions that they create. In the words of Algernon Sidney, "if vice and corruption prevail, liberty cannot subsist; but if virtue have the advantage, arbitrary power cannot be established."²⁹

Biographical Notes

Jeremy Hurren is a native of Springville, Utah. He graduated from Utah Valley University in 2010 with a B.S. in Political Science and a Minor in Computer Science. Jeremy studied computer science for years before becoming interested in political science over a decade ago with his first reading of *Atlas Shrugged*. Since that time, Jeremy has become active in local politics, serving as a member of the Pleasant Grove Library Board, County Delegate, Precinct Vice-chair, Republican Liberty Caucus Board, and volunteering for several political campaigns.

Jeremy has been employed professionally as a software engineer for nearly twenty years, working for companies such as WordPerfect, Novell, Altiris, and Microsoft. He is currently employed with Symantec Corporation in Lindon, Utah. He holds three U.S. patents for computer software inventions, and has several more patents pending.

Jeremy enjoys reading, snowmobiling, playing hockey and racquetball, and shooting sports. After graduation he plans on becoming even more involved with local politics, and perhaps running for public office on a local or state level. He is a strong believer in libertarian principles, and is interested in practical methods for applying them in the real world, which is part of the motivation for his writing.

FEAR, RACISM, AND WARTIME HYSTERIA CRIPPLE CIVIL LIBERTIES: KOREMATSU, JAPANESE AMERICAN INTERNMENT AND POST 9/11

JULIE KAIO

The Constitution of the United States defines the relationship between the federal U.S. government and its states and citizens as "founded upon the doctrine of equality."¹ All American citizens are guaranteed and entitled to certain rights, liberties, and freedoms under the Constitution and as outlined in the Bill of Rights. One of the most important responsibilities of the United States government is to protect its citizens' civil liberties. Americans have fought, bled, and died to protect these freedoms as evidenced in the beginning of our nation's history as 250,000 men fought in the American Revolution for the cause of independence and in modern day when Martin Luther King inspired millions as he campaigned for human rights.²

Governmental actions have often worked against civil rights, however. During World War I, Congress passed the Espionage Act of 1917, and a year later, the Sedition Act that set limitations on Constitutional rights to free speech, assembly and press during times of war.³ These acts have proven to be contradictions for certain segments of American society. It appears that during times of national emergencies, civil freedoms are the first to be compromised in society's quest for national security. Racism, fear, and war hysteria are extreme reactions that have allowed the federal government and the federal courts to disregard individual rights such as freedom of speech, unreasonable government searches, and the right to due process.

Following Pearl Harbor, "a day that would live in infamy," on February 19, 1942, the government began the process that allowed President Franklin D. Roosevelt to sign Executive Order 9066 on

1 *Hirabayashi v. United States*, 320 U.S. 81 (1943).

2 Markus Schmidt. "They Fought for our Freedom, But Now are Lost." *Progress-Index*, 4 July 2008. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=2W62W62335767986&site=ehost-live> (12 April 2010).

3 The Espionage Act of 1917 made it a crime for a person to interfere with the operation or success of the armed forces of the United States/to promote success of its enemies. The Sedition Act of 1917 prohibited the interference with military recruitment and insubordination in the military.

February 19, 1942.⁴ With that act, the protections in the U.S. Constitution meant nothing for Japanese Americans and Japanese residents along the West Coast. They were subject to government raids and the government took “anything that looked suspicious or that might be used to sabotage the country.”⁵ Without any search warrants, legal documents, evidence or probable cause, the F.B.I and the police entered the homes of Japanese Americans and Japanese residents. The actions of the U.S. government violated the Fourth Amendment rights of all Americans that guard against unreasonable searches and seizures.⁶ The police gave no information or justification for the confiscation of “flashlights, cameras, radios or things that looked suspicious” from Asian homes.⁷ Their entitled rights, liberties, and freedoms that are outlined in the Bill of Rights were overpowered by racism and the fear of espionage.

General John DeWitt, military commander of the Western Defense, designated the West Coast as a military area. On March 2, 1942, he established “certain military areas and zones” known as Military Areas -No. 1; and then on March 16, 1942, added Military Area No. 2. Next, DeWitt issued several exclusion orders and all persons of Japanese ancestry were removed to relocation camps because he claimed it was impractical and too time consuming to conduct an individualized determination of those who presented a security risk.⁸ Therefore, 120,000 Japanese American citizens and Japanese nationals were sent to internment camps.⁹

On May 30, 1942 Fred Korematsu, an American citizen, was arrested for violating the military’s exclusion order No. 34. He challenged the constitutionality of the concentration camps on the grounds that his imprisonment was based on his ancestry and nothing else. He said, “Everyday in school we said the pledge to the flag, with liberty and justice

4 See Executive Order No. 9066, 7 Fed. Reg. 1407 (Feb. 19, 1942) authorizing the War Secretary to prescribe military areas and exclude certain individuals for “national security” reasons.

5 Peter Irons, *Justice at War*, (New York: Oxford University Press 1983), 93.

6 US Constitution on Amendment IV.

7 “Japanese American Internment: An interview with Fred Korematsu,” *The Boston University Public Interest Law Journal* 3 (1993): 99-104.

8 Fritz Synder. “Overreaction Then (Korematsu) and Now (The Detainee Cases).” *The Crit* 2, no. 1 (2009): 80-109. http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=geri_fox (21 April 2010).

9 *Korematsu v. United States*, 319 U.S. 432 (1943).

for all, and I believed that. I was an American citizen and I had as many rights as anyone else.”¹⁰

In 1944, his case was argued before the Supreme Court to determine whether an American citizen could be sent to jail solely because his ancestry may pose a military threat. The Supreme Court decision ruled that in order to preserve national security, any citizen with “questionable loyalty” could be incarcerated. The Supreme Court upheld the decision of the lower court and decided the internment of a single race was a “military necessity” during emergencies.¹¹

However, forty years later, on November 19, 1983, Fred Korematsu had his day in court. He recalled 40 years earlier being handcuffed and arrested as a criminal.¹² Korematsu addressed the court, “As long as my record stands in federal court, any American citizen can be held in prison or concentration camps without a trial or a hearing. That is if they look like the enemy of our county. Therefore, I would like to see the government admit that they were wrong and do something about this so it will never happen again to any American citizen of any race, creed, or color.”¹³ Judge Marilyn Hall Patel overturned the *Korematsu* conviction because of irrefutable evidence that the government withheld and covered up information that Japanese posed no threat to national security.¹⁴ However, she acknowledged that she could not overturn the Supreme Court decision or the interpretation of the law.¹⁵ Judge Patel said, “*Korematsu* stands as a caution that the shield of military necessity and national security must not be used to protect governmental actions from close scrutiny and accountability. . . . Our institutions must be prepared to exercise their authority to protect all citizens from the petty

10 David Margolick, “Legal Legend Urges Victims to Speak Out,” *The New York Times*, 24 November 1984, sec. 1, 25.

11 *Korematsu v. United States*, 319 U.S. 432 (1943).

12 Peter Irons, *JUSTICE DELAYED The Record of the Japanese American Internment Cases*. (Middletown: Wesleyan University Press, 1989) 220.

13 *Korematsu v United States*, 584 F. Supp. 1406, 1420 (N.D. Cal. 1984).

14 *Korematsu v United States*, 584 F. Supp. 1406, 1420 (N.D. Cal. 1984).

15 Thomas Y. Fujita-Rony, “Korematsu’s Civil Rights Challenged: Plaintiffs’ Personal Understanding of Constitutionally Guaranteed Freedoms, The Defense of Civil Liberties, and Historical Context.” *Temple Political & Civil Rights Law Review* 13, no. 51 (2003). http://www.lexisnexis.com.ezproxy.uvu.edu/us/Inacademic/results/docview/docview.do?docLinkInd=true&crisb=21_T8949525783&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultsUrlKey=29_T8949525790&cisb=22_T89 (29 March 2010) 67.

fears and prejudices that are so easily aroused.”¹⁶ Judge Patel believed *Korematsu v United States* must stand as a constant caution that in times of war or declared military necessity, American governmental institutions must be vigilant in protecting constitutional guarantees.¹⁷ With the hope that the federal government would learn from the past and avoid future mistakes, President Ronald Reagan signed the federal Civil Liberties Act that granted reparations to all Japanese Americans who had been interned during World War II. However, the *Korematsu v United States* case remains on the books of the Supreme Court and was never overruled.

On the morning of September 11, 2001, Muslim terrorists attacked the United States. Americans instantaneously compared the bombing of Pearl Harbor to the attacks of September 11th. In the aftermath of “9/11,” racism reared its ugly head and again American citizens and their loyalties were under attack. Similar to the treatment of Japanese Americans after Pearl Harbor, American citizens who possessed similar ethnic and religious backgrounds as the hijackers were targeted in the name of national security. Again “petty fears and prejudices” towards Arab and Muslim Americans caused scrutiny solely based upon their appearance and religion. In reaction to 9/11, on October 26, 2001, Congress passed the USA PATRIOT Act. The PATRIOT Act has continued the debate between national security and civil rights.

The historical precedent of government actions during wartime has established that the quest for national security will continue to take priority over civil liberties, such as President Lincoln’s suspension of *habeas corpus*¹⁸ during the Civil War and later President Roosevelt authorization of the internment of loyal American citizens during WWII. The post 9/11 treatment of Arab Americans has resurrected the historical events of *Korematsu* and the treatment of Japanese Americans during World War II. The War on Terrorism uses national security as a defense when at the same time undermining citizens’ rights.

This paper will use the historical standard of *Korematsu* and the Japanese internment to discuss how racism, fear, and wartime hysteria has allowed the federal government to erode civil liberties especially

16 *Korematsu v United States*, 584 F. Supp. 1406, 1420 (N.D. Cal. 1984).

17 Ibid.

18 Lincoln Skated on Thin Constitutional Ice.” *New York Times*, 14 December 1985, p. 26. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=30616842&site=ehost-live> (22 April 2010).

for Muslim and Arab Americans, since the September 11th attacks. This paper will also discuss how the federal government has targeted Arab-Americans since 9/11, pushing aside rights such as in order to maintain national protection.

In *Play it Again, Uncle Sam*, Wallace A. Tashima argues that history is repeating itself in the post 9/11 treatment of Arab Americans. Wallace suggests the lessons of *Korematsu* and the Japanese American internment are not being considered in the current debate of how the War on Terror should be fought.¹⁹ The cycle is repeating itself through examples of hundreds of Arabs being arrested and detained without charges. The Federal Bureau of Investigation has singled out individuals for questioning based on racial, ethnic and religious criteria by the PATRIOT Act, and *Humdi v. Rumsfeld*. Wallace suggests that if the courts fail, as they did with case of *Korematsu*, then "there is nowhere else to turn" and civil liberties will be pushed aside.²⁰

Historian Nancy V. Baker published an article in the *Presidential Studies Quarterly*, "National Security versus Civil Liberties." In the article, Baker claims that a "product of wartime is that civil liberties are generally categorized as luxury" and later these rights are re-embraced during peacetime.²¹ However, she argues that liberties are not luxuries and Americans cannot afford to sacrifice them for any length of time. Baker asserts that national security heightened the Bush administration's control of the flow of information and placed restrictions on basic civil liberties, such as due process, free press, and the presumption of innocence in the American legal system. As a result, the relationship between the citizen and the state has been fundamentally and permanently altered. The difficult debate continues: national security versus civil liberties.

Adding to the debate, Elaine Cassel, author of *The War on Civil Liberties*, writes that the War on Terror is a war against civil liberties and

19 Wallace A. Tashima, "PLAY IT AGAIN, UNCLE SAM." *LAW AND CONTEMPORARY PROBLEMS* 68, no. 7 (2005): 7-14. [\(http://www.law.duke.edu/shell/cite.pl?68+Law+&+Contemp.+Probs.+7+\(spring+2005\)\)](http://www.law.duke.edu/shell/cite.pl?68+Law+&+Contemp.+Probs.+7+(spring+2005)) (4 February 2010).

20 Wallace A. Tashima, "PLAY IT AGAIN, UNCLE SAM." *LAW AND CONTEMPORARY PROBLEMS* 68, no. 7 (2005): 7-14. [\(http://www.law.duke.edu/shell/cite.pl?68+Law+&+Contemp.+Probs.+7+\(spring+2005\)\)](http://www.law.duke.edu/shell/cite.pl?68+Law+&+Contemp.+Probs.+7+(spring+2005)) (4 February 2010).

21 Nancy V. Baker, "National Security verse Civil Liberties." *Presidential Studies Quarterly* 33, no. 3 (2003): 547-567. [\(http://www.jstor.org/stable/27552513\)](http://www.jstor.org/stable/27552513) (24 February 2010).

cannot be won by the government, yet it depends on Americans citizens' and their vigilance in holding lawmakers accountable to policies that attack civil rights. Cassel states that the Bush administration, with the help of federal courts, has dismantled the Bill of Rights in pursuit of homeland security. They have shredded the First, Fourth, Fifth, Sixth and Eighth Amendments. The First Amendment protects Americans freedom of speech and the right to exercise of religion. Cassel states the Bush Administration has prosecuted Muslims for their religious practices and denying them anti-government demonstration permits.²²

Cassel relates that under the Bill of Rights, the Fourth Amendment protects against unreasonable government searches of Americans' personal property. The next amendment under attack is the Fifth Amendment that gives every American citizen the right to due process, which ensures all accused a fair trial. The Bush administration froze assets of Muslim charities and performed tax return audits without any disclosure evidence from the government.²³ Thousands of "suspicious: Americans were put on the international "no fly" list without notification of how or why their names were there.²⁴ In addition, there have been a few individuals who have been imprisoned for months and years without being charged with any crime; Yaser Hamdi and Jose Padilla.²⁵

Next, the Sixth Amendment entitles defendants to a fair trial. Just as General DeWitt used Executive Order 9066 to designate military areas, so did Attorney General John Ashcroft use "the power of executive order to mandate procedures"²⁶ to give the federal government the ability to monitor conversations between defendants and their attorneys. This took away the very essence of a fair trial by giving the government full access to client-attorney conversations and thereby giving the government "unheard of intrusion on the right to counsel."²⁷ Finally, the Eighth Amendment affirms that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted"

22 Ibid, 4.

23 Ibid, 5.

24 Ibid, 5.

25 Jerry Markon."U.S. Can Confine Citizens Without Charges, Court Rule." *The Washington Post*, 10 September 2005, A-01. <http://www.lexisnexis.com.ezproxy.uvu.edu/us> (12 April 2010).

26 Ibid, 6.

27 Ibid, 6.

by the federal government.²⁸ Muslims and Arabs have been denied bail for offenses such as visa fraud or failure to report certain financial transactions with foreign countries.²⁹ They have lost their jobs and have been denied bail; a punishment that civil rights scholars believe does not fit the crime. In conclusion, Cassel believes that fear during World War II led to the internment of Japanese American citizens and that the War on Terror and loss of individual freedoms resembles precedent that dates back to era of the Japanese internment.³⁰

Manzanar, one of ten Japanese relocation camps during World War II displays historical exhibits of the Japanese internment. It also shows two photos, one of the *U.S.S. Arizona* and the other of the World Trade Center next to each other. The juxtaposition of the photos makes the connection between the anti-Arab sentiments that has emerged after 9/11 with WWII history. Mas Okui, once a resident of Manzanar, said, "Sixty years of looking back on 9/11 will give us the time we've had to look back on Pearl Harbor. What Manzanar should do is say to people, 'God we did this. These people were cruelly treated. And I hope it never happens again.'"³¹ However, racism swept over the U.S. immediately following 9/11, leading some Americans to cruelly subject Arab-Americans, Arabs, and Muslims to racial slurs, vandalism, and hate crimes. These fearful Americans then pressure government to respond to their fears.

A powerful tool that causes the corrosion of civil liberties is social fear. Once Americans give into fear, they appear willing to give up other peoples' civil rights for their own protection. Fear has allowed Americans to accept racial profiling. Law enforcement has insisted that the interviewing of Middle Eastern men is not racial profiling, but merely a process of gathering helpful information against future attacks. The rationalization of the interview process has been to talk to anyone who resembles the hijackers.³² Michigan's Eastern District Attorney office

28 US Constitution, Amendment VIII.

29 Elaine Cassel, *The War on Civil Liberties*. (Chicago: Lawrence Hill Books, 2004), 7.

30 Ibid, introduction xvii.

31 Sora Song, and Maggie Wittenberg. "The Japanese Camps: Making The 9/11 Link." *TIME in partnership with CNN*, 16 February 2004 <http://www.time.com/time/magazine/article/0,9171,993402,00.html> (27 August 2009).

32 "Profiling with Respect." *Christian Science Monitor* 94, no. 8 (2001): 10. <http://search.ebsco-host.com/login.aspx?direct=true&db=nfh&AN=J0E361147321502&site=ehost-live> (23 March 2010).

sent out 700 letters inviting both US citizens and visitors of Middle Eastern descent in for questioning to gather information on terrorism.³³ On February 8, 2002, U.S. Attorney Jeffrey Collins, confirmed that Detroit office had successfully interviewed over 300 Middle Eastern men. *The Detroit Free Press* questioned Collins whether the information gathering process was a form of racial profiling. He denied that the interview process was "absolutely not" racial or ethnic profiling.³⁴ Collins said the interviewees were not defendants, but law abiding citizens like everyone else. The questioning was done to help law enforcement "piece together the puzzle"³⁵ of 9/11 and to prevent future attacks. Collins said the information that the 300 Middle Eastern men may have seems useless to them, but could be very significant to national security. When questioned about the type of information that had been gathered, Collins was unable to share what useful information the interviewers had received. The federal government now has the ability to contact these so-called "law-abiding"; it has citizens their names and phone numbers on a list in the event of a future incident. According to Collins, this would allow law enforcement to contact and again invite them in for questioning.³⁶ Collins has also portrayed the interviewing as building a bridge between law enforcement and vulnerable communities because interviewing was handled in a sensitive manner.³⁷ Citizens of a once ignored community were now front and center for racial profiling.³⁸

Ron Arnold, a black American, said he has been racially profiled all of his life and knows it is wrong. However, he admits that since 9/11 he has engaged in race profiling and is wary of men who look to be of Middle Eastern descent. If one was boarding a plane, he said, "I'd be nervous. It sickens me that I feel that way, but it's the real world."³⁹ Adrian Estala, a Hispanic American, said he is, "absolutely against racial

33 Profiling with Respect." *Christian Science Monitor* 94, no. 8 (2001): 10. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=J0E361147321502&site=ehost-live> (23 March 2010).

34 Susan Tusa, "It's Not Racial Profiling,," *The Detroit Free Press*, 8 February 2002, sec. A, 13.

35 Ibid.

36 Ibid.

37 Ibid.

38 Al Swanson. "Minorities decry race profiling." *United Press International*, 22 October 2003.

39 Sam H. Verhovek, "A Nation Challenged: Civil Liberties; American Give in to Race Profiling." *The New York Times*, 23 September 2001, sec. A, 1.

profiling because it's a fundamental violation of liberty." On the other hand when questioned about sharing a plane with Arab-looking men, he said he would feel anxious and it would cause him to "second-guess" his opinion of race profiling.⁴⁰ Jermaine Johnson, an African-American who has been a victim of prejudice all his life, said, "I would not feel comfortable at all if an Arab-looking person sat next to me a plane. I would be nervous; I mean right now it could be anyone....I don't feel comfortable with the ones I don't know. It's hard to know who to trust."⁴¹

Arnold, Estala, and Johnson all confirmed that they have been victims of racial profiling. They know it is a violation of their individual rights and absolutely wrong. Regardless of their own personal negative experiences with race profiling, fear influenced their acceptance of racism towards Arab-American, Muslims and those who look like the attackers. These types of fears have encouraged the acceptance of racial profiling.

In a *CNN/USA Today*- poll taken shortly after the attacks in September 2001, Americans supported special government measures for people of Arab descent. The survey taken based on profiling, found 58% percent of Americans in support of more intensive security checks for Arab Americans and those of Arab descent; 49% percent backed "special identification cards," and 32% percent were in support of a "special surveillance."⁴²

On November 19, 2001, President Bush signed an aviation security bill that gave the federal government responsibility for the nation's airports⁴³ and heightened security. Increased security included X-ray machines, explosive trace detection machines, and physical searches to examine passengers and their baggage to identify threat objects.⁴⁴ Before a passenger is authorized to board a plane, he or she is subjected to several different levels of security screening, all overseen by the federal government.

40 Ibid.

41 Ibid.

42 Ibid.

43 Bob Edwards, "President Bush Signs Aviation Security Bill." *Morning Edition NPR*, 19 November 2001. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=6XN200111191009&site=eho-st-live> (30 March 2010).

44 Airport Passenger Screening GAO-03-1173 <http://epic.org/privacy/airtravel/backscatter/d031173.pdf>

As a result, Arab Americans are continuing to be marked on the base of religion, color, and ethnicity. They have been removed as passengers from aircrafts after boarding, based on ethnicity, a direct violation of equal rights under the law.⁴⁵ The Fourteenth Amendment states that all persons born or naturalized in the United States cannot be deprived of life, liberty, or property without due process of the law, and all are subject to equal protection of the law.⁴⁶ People who pay for flights, yet cannot board them, have been deprived of their money and rights.

In their principal findings a year following September 11th, the American-Arab Anti-Discrimination Committee Research Institute documented over 80 comparable cases and occurrences of illegal and discriminatory removal of passengers after boarding but before plane departure.⁴⁷ On December 31, 2001, Michael Dasrath said he was ordered off the plane after he heard a white woman point and say to the captain, "... those brown-skinned men are behaving suspiciously."⁴⁸ However, the woman did not explain what type of suspicious behavior Dasrath, Edward Cureg and his mathematics professor had engaged in. Dasrath said he was sitting in his seat and doing nothing. The senior Continental gate agent called their names and asked them to gather their belonging and exit the plane. They were singled out because of their dark-complexion. Under the Statement of Equal rights, "all personas within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contacts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceeding for the security of a person's property as is enjoyed by white citizens."⁴⁹ A contractual relationship exists between a passenger and airline once a ticket has been

45 42 U.S.C. § 1981 : US Code - Section 1981: Equal rights under the law <http://codes.lp.findlaw.com/uscode/42/21/1/1981>.

Michael Dasrath v Continental, Airlines, Inc <http://www.aclu-nj.org/downloads/DasrathComplaint.pdf>

46 U.S. Constitution, 14th Amendment, Section 1.

47 Anne Stewart, "Report on Hate Crimes and Discrimination Against Arab Americans: The Post – September 11 Backlash September 11, 2001 – October 11, 2002. <http://www.adc.org/PDF/hcr02.pdf>.

48 Susan Sachs. "5 Passengers Say Airlines Discriminated by Looks." *The New York Times*, 5 June 2002, sec. B, p. 4. <http://www.nytimes.com/2002/06/05/nyregion/5-passengers-say-airlines-discriminated-by-looks.html?scp=1&sq=5%20Passenges%20Say%20Airlines%20Discriminated%20by%20Looks&st=cse> (23 February 2010).

49 42 U.S.C. § 1981 : US Code - Section 1981: Equal rights under the law <http://codes.lp.findlaw.com/uscode/42/21/1/1981>.

Michael Dasrath v Continental, Airlines, Inc <http://www.aclu-nj.org/downloads/DasrathComplaint.pdf>

purchased; a passenger cannot be treated differently because of ethnicity or religion. The American Civil Liberties Union (ACLU) filed suit and won because the pilots' actions were based on unlawful discrimination under the Equal Rights law Section 1981.⁵⁰

The *Dasrath v Continental* case has been used to show the limited progression of racial tolerance since *Korematsu v United States* because both cases used national security as the reason for sanctioned racism although the two cases are different in various ways. First, the decision of an airline to remove a passenger because he is "inimical to safety" is not the same as the governmental exclusion of the entire ethnic group. Next, a federal courts decision to deny the motion to dismiss is not similar to the United States Court's final decision in *Korematsu*. Finally, the action of Continental Airlines does not compare to the designated military areas authorized by the Executive Order 9066.⁵¹ However, the comparison is valid because both use the same type of language to place restrictions on civil rights.

The action against *Korematsu* was justified by using the words "national security" and "imminent danger." In *Dasrath*, it states that the "general climate... should not be forgotten that the decision at issue were made in an atmosphere pervaded by the fears and uncertainty" from the attacks of September 11th.⁵² It also shows the willingness of the federal government to mask racism towards Arab Americans to keep the nation safe by using national security to single out a group of individuals. *Dasrath* reminds society that in the quest for national security, the burden of citizenship may lie heavier on one ethnic group than others.⁵³

Following 9/11, Congress responded to the attacks by approving the PATRIOT Act⁵⁴ on October 26, 2001. The USA PATRIOT Act is an acronym for "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001." The purpose of the act is to "to deter and punish terrorist acts

50 Dasrath, 228 F.

51 Elbert Lin, "Korematsu Continued." *The Yale Law Journal* 112, no. 7 (2003): 1911-1918. http://www.yalelawjournal.org/112/7/1911_elbert_lin.html (4 February 2010).

52 Ibid.

53 Ibid.

54 Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Ac, Pub. L. No. 107-56, 115 Stat 272 (2001).

in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.”⁵⁵ It has given the federal government additional powers to conduct surveillance, monitor financing, and deport aliens involved in terrorism without a trail.⁵⁶ In 1978, the Foreign Intelligence Surveillance Act (FISA) was established to protect U.S. citizens against warrantless surveillances of domestic abuses of information gathering. However, the U.S.A. PATRIOT Act, with the purpose to deter and punish terrorist, infringes on all American citizens’ civil rights, directly violating the First and Fourth Amendments, as well as FISA.

The heightened strength of information gathering allows the government to monitor without a warrant every e-mail sent or received by an individual. The Federal Bureau of Investigation may also gather records from financial institutions, businesses, hospitals, libraries, and internet records without notice and only the notation of it being in the interest of national security.⁵⁷ Under the PATRIOT Act, law enforcement and counterintelligence agencies are authorized to share information and conduct “sneak and peak searches.”⁵⁸ The sneak -and-peak allows the government to delay telling people that it has secretly searched their homes.⁵⁹

These covert sneak-and-peek searches are conducted without an executed search warrant. The only requirement is that a warrant must be obtained after a search “within reasonable period”⁶⁰ that does not exceed 30 days. The sneak-and-peek is an infringement of the Fourth Amendment which requires the federal government to have a warrant to conduct searches and give probable cause for the search. The sneak-and-peek gives law enforcement the ability to bypass the search warrant

55 USA PATRIOT Act § 213, Pub. L. No. 107-56, 115 Stat. 272 (2001).

56 Howard Ball, *Bush, the Detainees, and the Constitution The Battle over Presidential Power in the War on Terror*. (University Press of Kansas, 2007), 14.

57 Ibid.

58 USA PATRIOT Act § 213, Pub. L. No. 107-56, 115 Stat. 272 (2001).

59 “An Unpatriotic Act.” *The New York Times*, 25 August 2003. <http://www.nytimes.com/2003/08/25/opinion/an-unpatriotic-act.html?scp=1&sq=An+Unpatriotic+Act.&st=nyt&pagewanted=print> (30 March 2010).

60 USA PATRIOT Act § 213, Pub. L. No. 107-56, 115 Stat. 272 (2001).

or to give probable cause for the search and seizure of private property.⁶¹ An argument of the vague wording of “within reasonable period” has eliminated the checks and balances which historically have been in place to prevent abuse by law enforcement. During sneak-and-peek searches, agents may take photographs, seize physical property, examine a computer’s hard drive, download information, and insert a digital sniffer keystroke logger. The sniffer keystroke logger is also known as the “magic lantern” for its ability to record anything typed on a keyboard.⁶² The A.C.L.U. and other civil rights organizations, and Bob Barr, a former U.S. representative, have spoken out against the PATRIOT Act and its invasion of privacy and civil rights. Barr is one of the leading advocates in the PATRIOT Act Reform Organization. He said, “I think that the power that the government has under the PATRIOT Act . . . is clearly contrary to the notion underlying the Fourth Amendment.”⁶³ Yet, the Justice Department paints another picture of the War on Terror and described the U.S.A. PATRIOT Act as “a critical tool in the war against terrorism.”⁶⁴ F.B.I. Director Robert S. Mueller III said the Bureau has become more effective because of the PATRIOT Act, as it allows the “facilitating information sharing within the law-enforcement and intelligence communities.”⁶⁵ According to government agencies, the PATRIOT Act is an essential tool in fighting terrorism.

However, the American Civil Liberties Union has weighed in on the debate and claims that the PATRIOT Act violates the First Amendment, free speech, and the Fourth Amendment, that protects against unreasonable searches and seizures. The focus of the A.C.L.U.

61 US Constitution Amendment IV.

62 Nat Hentoff, “No ‘Sneak and Peek.’” *The Washington Times*, 4 August 2003, sec. A, 17. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=4KB20030804081437&site=ehost-live> (11 March 2010).

63 Ari Bloomekatz, “Controversial Provision Of The USA PATRIOT Act Comes Under Fire.” *The Seattle Times*, 1 August 2005. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=2W73013328807&site=ehost-live> (11 March 2010).

64 Dan Eggen, “Seizure of Business Records is Challenged: AUCL and Arab American Groups File Lawsuit Over Elements of USA Patriot Act.” *The Washington Post*, 31 July 2003, sec. A, 02. http://www.lexisnexis.com.ezproxy.uvu.edu/us/inacademic/results/docview/docview.do?docLinkInd=true&risb=21_T8792851219&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultUrlKey=29_T8792851228&cisb=22_T87 (11 March 2010).

65 Guy Taylor, “FBI Chief Praises the PATRIOT Act.” *WASHINGTON TIMES*, 24 July 2003, sec. A, 8. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=4KB20030724113701&site=ehost-live> (30 March 2010).

argument is the issue of "business records" that target Muslims. It allows the FBI to "seek production of any tangible things, including, books, records, papers, documents and other items" ⁶⁶ without disclosing its request. Booksellers and librarians view this as an unwarranted invasion of privacy that is directed towards the reading habits of Muslims and Arabs.⁶⁷

In the Southern District of New York, U.S. District Judge Victor Marrero sided with the A.L.C.U. when it challenged Section 505 of the PATRIOT Act, claiming it was an abuse of free speech and unlawful search and seizure. Section 505 authorized the F.B.I. to use a National Security Letter (NSL) to acquire a customer's communication records (internet service providers or telephone companies) and then prohibited the company from disclosing that the letter was ever received. Judge Marrero said the F.B.I.'s use of NSLs without judicial review violates the Fourth Amendment, and that the "nondisclosure provision" of the law violates the First Amendment.⁶⁸ His ruling also affirmed the abuse that occurs without checks and balances. In the 122-page ruling, Judge Marrero ordered that within 90 days the government end the issuing of NSLs.⁶⁹ A.C.L.U. lawyer Jammel Jaffer said, "Today's ruling is a wholesale refutation of excessive government secrecy and unchecked executive powers by passing the PATRIOT Act."⁷⁰

Judge Marrero's decision in favor of civil rights shows this court has not failed to protect the guaranteed Constitutional rights of all citizens. The ruling sends the message to government institutions that, when needed, the federal court systems will stand up and challenge policies that erode civil liberties, especially policies passed during times of war hysteria. His decision demonstrates that civil rights are not a luxury only

66 Dan Eggen, "Seizure of Business Records is Challenged: AUCL and Arab American Groups File Lawsuit Over Elements of USA Patriot Act." *The Washington Post*, 31 July 2003, sec. A, 02. http://www.lexisnexis.com.ezproxy.uvu.edu/us/inacademic/results/docview/docview.do?docLinkInd=true&risb=21_T8792851219&format=GNBFI&sort=RELEVANCE&startDocNo=1&resultUrlKey=29_T8792851228&cisb=22_T87 (11 March 2010).

67 Ibid.

68 Guy Taylor, "Judge strikes down part of Patriot Act." *The Washington Times*, 30 September 2004, sec. A, 06. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=4KB20040930120716&site=ehost-live> (12 March 2010).

69 Ibid.

70 Ibid.

to be held during time of peace, but at all times.

U.S. Senator Russ Feingold also recognized the negative impact of quick polices passed because of "wartime hysteria." Immediately after the attacks of 9/11, Senator Feingold raised two issues on the Senate floor. First, he was concerned that "we must continue to respect our Constitution and protect our civil liberties" and secondly, he issued a warning against the mistreatment of Arab Americans, Muslim Americans, South Asians, or others in this country."⁷¹ He took a lone stand and was the only one out of 100 senators who voted against the U.S.A. PATRIOT Act.

On October 25, 2001, Senator Feingold addressed President Bush and members of Congress. He related the nation's history of eroding civil rights during wartime, such as the Alien and Sedition Acts, suspension of habeas corpus during the Civil War, internment of Japanese-Americans during World War II, McCarthy era, and persecution of anti-war protestors. He adamantly pleaded that these pieces of history must not be allowed to be played out in the War on Terror.⁷² Senator Feingold said he has reason to be concerned and alarmed because the government has detained hundreds on immigration violations and arrested material witnesses without being charged with any crimes.⁷³ Feingold shared an example of how the F.B.I. arrested Albader Al-Hazmi, a radiologist from San Antonio, because his name was similar to two of the 9/11 hijackers. Hazmi was held incommunicado for six days without access to an attorney and then finally released. Feingold agreed with Hazmi's lawyer's statement, "This is a good lesson about how frail our processes are. It's how we treat people in difficult times like these that is the true test of the democracy and civil liberties that we brag so much about throughout the world."⁷⁴

Senator Feingold stated that some believe Americans must "accept some reduction" of civil rights to keep the nation safe from terrorist attacks, but said the Constitution and Bill of Rights are to protect liberty at all times, both at war and during peace. The Patriot Act included strengthening government's ability to information gathering

71 Russ Feingold. "On The Anti-Terrorism Bill." Government Proceeding, The Senate Floor, DC, 25 October 2001.

72 Ibid.

73 Ibid.

74 Ibid.

such as eavesdropping on phone conversation, opening mail, monitoring email communication, searching homes at anytime, and imprisoning for opposing the war is not America.⁷⁵ He warned that the bill was an infringement on personal liberty under the Fourth Amendment because it easily allowed "law officials to cite in every case the reasonable cause to believe to search a home or office without a warrant."⁷⁶ Next, the bill authorizes government to obtain personal records, government surveillance on public libraries without probable cause, and the expansion of government powers under the Foreign Intelligence Surveillance Act. Senator Feingold said,

I have concluded that this bill still does not strike the right balance between empowering law enforcement and protecting civil liberties. . . . We must maintain our vigilance to preserve our laws and our basic rights. . . . Protecting the safety of the American people is a solemn duty of Congress; we must work tirelessly to prevent more tragedies But the Congress will fulfill its duty only when it protects both the American people and the freedoms at the foundation of American society Let us practice as well as preach the liberty. And let us fight to maintain that freedom that we call America.⁷⁷

Senator Feingold's reservations do not diminish his resolve to fight and prevent terrorism against America nor his vigilance to ensure the nation's security. He claims one of the most important responsibilities of the U.S. government is to protect its citizens' civil liberties at all times; lawmakers must always look at the direct effects upon civil rights. Senator Feingold understood that many of the bill's expanded powers were drafted in haste after the events of September 11th. Since the passing of the PATRIOT Act, other members of Congress and Judge Jim Gray have recognized the same problems as Senator Feingold and have come out against the renewal of the PATRIOT Act.⁷⁸

Judge Jim Gray from Orange County Superior Court in California

75 Ibid.

76 Ibid

77 Ibid.

78 Charles Babington, "4 GOP Senators Hold Firm Against Patriot Act Renewal." *The Washington Post*, 21 December 2005, sec. A, 04. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=WP T087545434605&site=ehost-live> (23 March 2010).

took an unpaid leave in 2004, to run as a Libertarian candidate for the Senate. He left the Republican Party after the PATRIOT Act passed because he said could not be a "part of any organization that condones the PATRIOT Act. . .the anti-terrorism measure crushes the right to privacy, frees the government from judicial scrutiny and has a chilling effect on freedom of expression."⁷⁹ Judge Gray's decision to run for the Senate was an expression of the important responsibility lawmakers have to protect civil liberties. These individuals had the courage to make a stand against the federal government. They believed the War on Terror could be lost at home if civil rights are compromised. Four GOP Senators have argued that the PATRIOT Act needed to include more safeguards against the violation of civil rights.

Republicans senators Larry E. Craig (Idaho), Chuck Hagel (Neb.), John E. Sununu (N.H.), and Lisa Murkowski (Alaska) believe that the PATRIOT Act gives government the upper hand in information gathering and setting aside civil rights and have posed as opposition in the act's renewal. President Bush urged the senators to pass the PATRIOT Act. He said, "The senators who are filibustering the PATRIOT Act must stop their delaying tactics."⁸⁰ However, Senator Hagel responded to President Bush by acknowledging the oath of office to the Constitution was not to the Republican Party or to the President of the United States. He would not make the same mistake and rush the renewal of the Patriot Act. Hagel recognized that the passing of the PATRIOT Act was done immediately after 9/11, and did not allow for the proper checks and balances to be put in place to prevent the government's ability to abuse the civil rights of all Americans. The alarming reality of the PATRIOT Act is the power it has to deny American citizens their rights and detain indefinitely American citizens without charges.

In January 2002, Northern Alliance forces in Afghanistan captured Yaser Esam Hamdi, an American citizen.⁸¹ Hamdi was accused of fighting with the Taliban and was handed over to the United States military, where he was transferred to the U.S. naval bay at Guantánamo Bay, Cuba. At the time of Hamdi's capture, it was not known that he was an American

79 Ibid.

80 Ibid.

81 Cliff Akiyama. *When You Look Like the Enemy*. Brief treatment and crisis intervention. 8(2008): 209-213.

citizen by birth. Authorities held Hamdi at Guantánamo Bay until they discovered that he was an American citizen. Military authorities then sent Hamdi to a naval base in Norfolk, Virginia and then moved him to Charleston, South Carolina.⁸² The federal government labeled Hamdi as an “enemy combatant,” meaning that he would be held incommunicado for as long as the Department of Defense deemed necessary. The U.S. government did not file any charges against him and he had no legal hearing.⁸³

In June 2002, Esam Fouad Hamdi, Hamdi’s father, filed a petition for a writ of *habeas corpus* on behalf of Hamdi. The petition argued that the detention of Hamdi was a direct violation of his due process rights as outlined in the Fifth Amendment.⁸⁴ Hamdi senior obtained the help of Frank W. Dunham Jr., and submitted a petition for *certiorari* to the U.S. Supreme Court to determine whether an American citizen could be held without charges or due process⁸⁵ and argued that Hamdi’s detention violated the Fifth and Fourteenth Amendment rights and wanted the detention of Hamdi to be ruled unconstitutional.⁸⁶ As an American citizen, Hamdi is entitled to the protection under the Constitution.⁸⁷ Hamdi senior presented documents that stated his son went to Afghanistan because of relief work. However, the government’s response was a declaration from Special Advisor to the Under Secretary of Defense of Policy, Michael Mobb, who said Hamdi traveled to Afghanistan to receive weapons training from the Taliban. The District Court said the Mobb declaration did not support Hamdi’s detention and⁸⁸ ordered that counsel be given to Hamdi.

The government appealed, stating Congress has affirmed that the authorization for use of Military Force was granted, which allowed

82 Joseph Margulies, *Guantanamo and The Abuse of Presidential Power* (New York: Simon and Schuster, 2006), 25.

83 Howard Ball, *Bus, the Detainees, and the Constitution The Battle over Presidential Power in the War on Terror*. : University Press of Kansas, 2007.

84 Jenny S. Martinez, “Hamdi V. Rumsfeld. 124 S. Ct. 2633.” *The American Journal of International Law* 98, no. 4 (2004): 782-788. <http://www.jstor.org/stable/3216700> (30 March 2010).

85 Howard Ball, *Ibid*, 105.

86 *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004).

87 *Ibid*.

88 *Ibid*.

the president to use "all necessary and appropriate force." The Fourth Circuit Court of Appeals decided 8-4 that Hamdi's detention was lawful. Hamdi was held as a detainee for over two years without any access to a lawyer. As the District Court and government continued to argue back and forth with regards to the constitutionality of the Hamdi detention, the A.C.L.U., as well as Fred Korematsu questioned the president's right to hold U.S. citizens as an enemy combatant.⁸⁹

Fred Korematsu submitted to the court an *amicus curiae* in support of Hamdi and other detainees. The *amicus curiae* documents the historical events that have led the executive and legislative branches to disregard citizens' rights during times of war.⁹⁰ Not once during the *amicus curiae* did Korematsu defend the innocence of Hamdi or the other detainees. Rather, he defended the rights that were being denied to American citizens, especially the right of due process. These rights are supposed to be upheld by the U.S. courts and not sacrificed during times of war. Korematsu became an advocate against the PATRIOT Act because he understood firsthand the effects that historical precedent has placed on targeting of Americans based on their race and the resulting loss of civil rights.

The U.S. Supreme Court decided that the President has the right to designate U.S. citizens as enemy combatants,⁹¹ but cannot strip their rights to due process of the law.⁹² Justice Sandra Day O'Connor reminded President Bush that war is not a blank check to violate the Constitutional rights of all Americans.⁹³ Finally, in September 2004, after being detained for three years without any official charges, the federal government released Hamdi and sent him to Saudi Arabia.⁹⁴ However, the U.S. government has demanded that Hamdi give up his U.S. citizenship

89 Peter Schuler. *Stone Writes Fred Korematsu's Amicus Brief, As History Repeats*. Chicago Chronicle 23, no. 4. (2003).

90 Brief of *Amicus Curiae* Fred Korematsu in Support of Petitioners No. 03-334,03-343, 03-6696.

91 Alex Chadwick, "US Release of Alleged Enemy Combatant Yaser Hamdi." *Day to Day, NPR*, September 2004.

92 *HAMDI*, 542 U.S. 509.

93 Nat Hentoff, "When the Constitution Trumps the President." *The Washington Times*, 12 July 2004, sec. A, 19. <http://search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=4KB20040712113125&site=ehost-live> (26 March 2010).

94 Alex Chadwick, "US Release of Alleged Enemy Combatant Yaser Hamdi." *Day to Day, NPR*, September 2004.

and not be permitted to leave Saudi Arabia for five years.⁹⁵ After three years of being detained, Hamdi agreed to the terms of his release and renounced his citizenship.

Racism, fear, and war hysteria have all been elements that have led to the erosion of civil rights. Sixty years later, the Japanese American internment is viewed as a horrible injustice and, therefore, lawmakers must ask how policies during the War on Terror will be viewed by future generations. If the erosion of civil rights continues, the stain will be even darker and more likely to repeat the cycle of denying civil rights to American citizens, as historical precedent has already demonstrated.

Threats against future attacks have allowed the acceptance of racial profiling among Americans. As fear grows during times of uncertainty, Americans allow freedoms such as due process and warranted searches to be pushed aside in the name of national security. War hysteria has allowed Congress and the President to pass policies that directly obstruct the Constitutional rights of all American citizens.

The *Korematsu v United States* case remains on the books of the Supreme Court and was never overruled. Therefore, the federal government continues to cite the landmark case as justification for the erosion of civil rights during wartime. Fred Korematsu wanted American citizens to comprehend the significance of his case, "They don't understand that we were American citizens imprisoned for no reason at all. . . It's a constitutional issue . . . We had to persuade Congress that it was wrong."⁹⁶ Korematsu challenged post 9/11 policies because he believed that the federal courts could hold any American in prison if he looked like the enemy. The detention of Yaser Hamdi is proof that the significance of *Korematsu v United States* has yet to be fully understood.

In conclusion, when the abuse by the president merges with the destruction of civil rights, U.S. courts must act, and at the times have acted, as the safeguard that upholds the Constitution. Once the threads of civil liberties become unraveled, the nation's character can be changed, as government continues to conduct surveillance, racial profiling, monitor financing, eavesdropping on phone conversations, mail, e-mails and conduct sneak-and-peek search without warrants. The

95 Ibid.

96 "Japanese American Internment; An interview with Fred Korematsu. The Boston University Public Interest Law Journal, vol.3 (1993):99-104.

federal government must note that these sections of the PATRIOT Act directly contradict the Bill of Rights by shredding the First, Fourth, Fifth, Sixth and Eighth Amendments. Lawmakers must take a courageous stand as did Senator Feingold and strike down bills that do not balance the power between law enforcement and civil rights. Congress must enact provisions to the PATRIOT Act that hold safeguards against the erosion of civil liberties. Echoing the words of Justice Sandra Day O'Connor to the federal government, "War is not a blank check to violate the Constitutional rights of Americans."⁹⁷

Biographical Notes

Julie Ann Gaiuli Kaio is of Samoan, Irish, and Lebanese descent. She is from California and comes from a large and loving family. She served an LDS mission to Panama City, Panama. During her Junior year of high School she discovered a fascination for history and decided she wanted to teach history just like her mom. She recently graduated with a Bachelor of Arts in History from UVU. She chose to write her Senior thesis on the battle between civil rights and national security using the historical precedent of Fred Korematsu, Japanese internment, and the current debate of the treatment of Arab and Muslim Americans. She first learned about the Japanese American internment during a Utah History class. She was captivated by the landmark case, *Korematsu v United States*, and how his case became an important symbol of the need to preserve civil liberties. Civil rights era history, post and modern, has become her favorite area of study. Her future plans include teaching at the secondary level and the possibility of attending law school. She enjoys dancing, jogging, movies, volleyball, and watching sports. She recently participated in the Provo 5k freedom run on July 5th and she has a goal of completing a half marathon before the end of the year. Her favorite hobby is spending time with her family. She is an aunt to ten wonderful nieces and nephews.

The Western and Rio Grande Railroads

Barry Maxfield

To the casual observer, the Denver and Rio Grande Western Railroad (Rio Grande), was one of the most stylishly run railroads in the United States. In its latter years, its hallmark was short, fast trains, led by striking black and orange striped locomotives, hustling through the stony passes of the Rocky Mountains. However, there was more substance to this operation than its surface appearance. It was a railroad run by men, oblivious to the obstacles around them; they overcame the castle wall of the Rocky Mountains, blinding snowstorms, ice, rockslides, deep canyons and floods.¹ The mettle of these men was tested by the elements and western geography. Yet these men also saw serious financial reversals and financial embarrassment, constantly fighting with bond holders, robber barons, insurance companies, and takeover artists. The men of the Rio Grande swore independence and they almost achieved it. However, the process of going out of business sometimes takes many steps and years. So it was in the case of the Rio Grande.

The answers are never simple when a railroad becomes a fallen flag. In 1996, The Denver and Rio Grande Western Railroad was finished weathering the storm, following other railroads into the oblivion of a railroad merger. Men such as D&RGW presidents Judge Wilson McCarthy and Gale Benton "Gus" Aydelott fought fierce battles for independence. However, since the 1950s, the powers in Washington, intent on redrawing the railroad map, found a way to force the fiercely independent western railroad out.²

The Rio Grande was a western bridgeline railroad that spanned the distance from Denver, Colorado, to Ogden, Utah.³ On the national railroad map, the Rio Grande was a small railroad based in Colorado. However, it was the largest railroad in both Utah and Colorado, with

1 Jack Goodman, "Highballs In Snow; Railroads in West Keep Trains Moving By Staying Ahead of the Storms," *The New York Times*, 1 March 1964, Travel, 21.

2 "Rumble In The West," *Time Magazine*, 17 Feb. 1961, <http://www.time.com/time/magazine/article/0,9171,826892,00.html>(accessed 3 March, 2010)

3 A bridgeline railroad makes a point to point connection with two other railroads, moving their traffic between them over its railroad track, thus acting as a bridge between the two railroads. Sometimes the railroads on each end of the bridgeline are adversarial.

more track miles than any other rail line.⁴ The Denver billionaire Phillip F. Anschutz bought control of the Rio Grande in 1984 and merged it with the Southern Pacific Railroad (SP) in 1987. Anschutz sold the Southern Pacific, along with the Rio Grande, to his largest competitor in Colorado and Utah, the Union Pacific Railroad Company (UP) in 1996, a transaction in which he profited over one billion dollars. The effect of this was that UP halted a large percentage of service on the Rio Grande in 1997, causing the Rio Grande to disappear as a legal and physical entity. There were three factors in the Rio Grande's merger. They were the bankruptcy of the Chicago Rock Island and Pacific Railroad (Rock Island), the passage of the 1980 Staggers Transportation Deregulation Act, and the merger of the Western Pacific Railroad (WP) and Missouri Pacific Railroad (Mopac) into the Union Pacific Railroad.

The Denver and Rio Grande Western Railroad was built in 1871 by opportunists drawing on funds from Eastern U.S. financiers, because at the time of its inception there was little wealth in the West to finance such a forward looking enterprise. Even the Quaker-born Union general, William Jackson Palmer, who conceived the Denver and Rio Grande, was an Easterner from Delaware. Palmer's ambition was to build a railroad along the Front Range of the Rocky Mountains in Colorado, then to sweep south into Mexico. Palmer, a military man, knew the best plans always change. His plans were altered with interference from the Atchison, Topeka and Santa Fe Railroad (ATSF) that blocked the strategic Raton Pass in New Mexico with its construction. This and continuous financial shortfalls forced Palmer to push his railroad toward Utah instead.⁵

Over the decades, Palmer's railroad weathered economic troubles and bankruptcy many times. In the 1930s, men with ties to the Colorado and Utah economies wrested control of the railroad from the eastern insurance companies, bondholders and foreign railroads to bring the Rio Grande under local control. Bankruptcy Judge J. Foster Symes, Trustee Judge Wilson McCarthy, and Co-trustee Henry Swan, all men with economic ties to Colorado and Utah, for twelve years battled the railroad's shareholders, bondholders and the Interstate Commerce

4 *Rand McNally Handy Railroad Atlas of The United States*, (Chicago, Rand McNally, 1980), 58.

5 Robert G. Athearn, *The Denver and Rio Grande Western Railroad*. 1967, (Yale University Press, New Haven ed. Lincoln, NE: University of Nebraska Press, 1977), 50.

Commission (ICC) for independence.⁶ In 1947, they brought the railroad out of its final bankruptcy lean, competitive and free of debt. In 1956, Gale Aydelott, general manager of the Rio Grande, took the helm upon the death of Judge McCarthy and continued the rule of local control; the railroad remained in control of regional interests in Colorado and Utah. By the 1960s, the Rio Grande was profitable, in contrast to many railroads in the United States that were financially embarrassed.⁷

The Rio Grande has an incomplete history in many aspects; especially the contemporary history and the reasons for the railroad's need to seek a merger partner to remain a viable entity. The exploration of the Rio Grande's history is early, dwelling on the construction of the railroad through the railroad's final bankruptcy that started in 1935. Robert Athearn wrote the most comprehensive work on the subject in his book *Rebel of the Rockies*, renamed *The Denver and Rio Grande Western Railroad* in subsequent editions. Athearn wrote of the railroad from its start in 1871 through 1960. His work on this issue is complete through the death of Judge Wilson McCarthy, president of the Rio Grande in 1956. Athearn's work is by far the most comprehensive on the Rio Grande, and has been issued several times from the University of Nebraska and Yale University presses, respectively. Athearn wrote of Judge McCarthy in glowing terms because of their friendship, but this would be easy, as McCarthy was a man of high ideals and character, and upon his death he left a railroad that was profitable. The problem with Athearn's work is that he leaves the narrative at an awkward pause, simply ending by telling the reader that it was rumored in 1960 that Union Pacific was buying large blocks of Rio Grande stock, and that Gus Aydelott, the president of the Rio Grande, warned shareholders to remain vigilant against those who would seek control of the Rio Grande.⁸ Robert LeMessena completed another work *Rio Grande...to the Pacific!* on the Rio Grande that covers the same era as Athearn, his work, however, ends in 1970. LeMassena's work is by no means academic; it is considered more of a railfan guide to

6 Symes, McCarthy and Swan were overseeing the bankruptcy of the Rio Grande. Symes was the federal judge in charge, while McCarthy and Swan were court appointed trustees who were tasked with the responsibility of addressing the Rio Grande's interests before the court. They were also responsible for the day-to-day management of the railroad.

7 Athearn, 361.

8 Athearn 361 The assertion that the rumor of UP buying Rio Grande stock was verified by the *New York Times* on 4 April, 1961, "Rio Grande Stock to Union Pacific", 51.

the Rio Grande, breaking down the railroad's history into small sections by year. He gives no analysis to his sources.

Will Bagley wrote a book on the life of Judge Wilson McCarthy entitled *Always a Cowboy*. Some of the information in this book is familiar. The information Bagley presents on the Rio Grande essentially appeared in Athearn's book. In the last chapter, he offers an extremely abbreviated explanation to the Anschutz merger of the Rio Grande. The sources that Bagley uses are not academic as they are of a hobbyist nature and they editorialize to an extent and rely on name calling to convey a point.⁹ For instance, a source that Bagley cites is Colorado historian Virginia McConnell Simmons who compares Anschutz to Jay Gould. Her statement, "the multifarious billionaire investor, today's version of Jay Gould," smacks of some bitter class envy, implying at the same time that Anschutz was a modern day robber baron.¹⁰ The comparison is not correct for the fact that Jay Gould and, later Jay George Gould, stripped their railroads of any cash, leaving them poor and often on the brink of bankruptcy.¹¹ Anschutz, on the other hand, poured millions of dollars into the Rio Grande and the Southern Pacific in an effort to upgrade the properties and locomotives. Anschutz also honored the SP labor contracts, this was not Gould's hallmark. Anschutz did not make a profit on the railroads until he sold them to the Union Pacific. The Union Pacific purchased quality properties for which they paid Anschutz five billion dollars.¹² That cannot be said of the Gould properties when the family finally lost control of them between 1908 and 1918.¹³ Saying that Anschutz was a robber baron like Gould is simply fallacious. The accusation against Anschutz is merely that he did not have the local Utah and Colorado economies in mind when he sold the railroad to Union Pacific.

9 Bagley relies on non-academic sources such as Don Strack, an amateur railroad historian and *Colorado Central Magazine* for his quotes from Virginia McConnell Simmons.

10 Will. Bagley, *Always a Cowboy: Judge Wilson McCarthy and the Rescue of the Denver & Rio Grande Western Railroad*. 1st ed. (Logan, UT: Utah State University Press), 2008.

11 Athearn, 210.

12 Aliza, Fan. "Billionaire Anschutz To Trade Trains For New Stab At Oil & Gas Business. (Philip Anschutz sells Southern Pacific, buys Forest Oil Corp.)." *The Oil Daily*, 08 Aug. 1995: 32.

13 The Gould Properties in the west were Union Pacific, Missouri Pacific, the Rio Grande, and the Western Pacific. By the time of George Jay Gould's death in 1923, the properties were in bankruptcy, seized by other financiers, or were in the custody of the United States Railroad Administration.

The 1960s was a decade of contraction for American railroads. They earned less than 2% on capital invested, while the biggest eastern U.S. railroads fell into debt by \$96 million dollars.¹⁴ Strict government regulation was the most important reason for the loss of the rail industry's competitive advantage over other forms of transportation.¹⁵ Railroads were encumbered by the Interstate Commerce Commission Act of 1887, legislation that regulated railroads to ensure fair rates and eliminated rate discrimination. The Interstate Commerce Commission (ICC) regulated all aspects of railroad operation, often without congressional oversight. During the 1960s, twenty percent of American railroads fell into bankruptcy.¹⁶ Some railroads, such as the Chicago, Rock Island and Pacific were in and out of the bankruptcy court so often the court filings seemingly ran together. By 1975, the problem faced by the U.S. Congress was either to change railroad regulation or nationalize American railroads, which could prove to be difficult politically.¹⁷ The railroads would become an indicator of a drastic change in the American economy.

The Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) was a diluted attempt to reform railroad regulation in the United States. This act gave more latitude to what railroads could charge customers without ICC scrutiny.¹⁸ It allowed more freedom for a railroad to enter and exit a market area without multi-year ICC proceedings to determine the effects on that market. The problem with the 4R Act was it contained language that was not clear and did not indicate the legislative intent leaving interpretations of the law open to any legal whim.¹⁹ This would lead to a second round of legislation to clarify the intent of the 4R

14 Central Railroad of New Jersey; Erie Lackawanna; Lehigh & Hudson River; Lehigh Valley; Penn Central (merger of the New York Central and Pennsylvania Railroad), and the Reading Railroad and A Merger Scoreboard, *Time Magazine*, 31 March 1975 found at <http://www.time.com/time/magazine/article/0,9171,870067,00.html> (accessed 5/9/2009)

15 Railroad Regulation Economic and Financial Impacts of The Staggers Act Rail Act of 1980, *United States General Accounting Office*, 9.

16 Association of American Railroads, "Back to the Future! Don't Reregulate the Railroads," 2009, <http://dev.aar.org/AAR/IndustryInformation/Re-Regulation/DontRemakeReregMistake.aspx>. (accessed 1 January, 2010)

17 Rush Loving, *The Men Who Loved Trains: The Story of Men Who Battled Greed to Save an Ailing Industry* (Indiana University Press, Indianapolis), 2006, 110.

18 Pricing procedures where the railroad determines how much to charge a customer to move a railcar is more commonly referred to as a *rate* in the railroad industry.

19 Loving, 110.

Legislative relief for most railroads came in 1980, with the passage of Public Law 96-448, more commonly known as the Staggers Act. The Staggers Act allowed the railroads to establish rates for rail service, unless the ICC determined that there was no competition of rail services. Shippers and railroads could also establish rate contracts without ICC review. Staggers contained a provision that allowed the ICC to mandate access by one railroad on another railroad's facilities when a monopoly existed over shippers.²⁰ The Staggers Act was signed into law by President Jimmy Carter on October 14, 1980.

The Staggers Act held unintended consequences for the small U.S. bridgelines like the Rio Grande.²¹ Under the Staggers Act, single line railroads that had routes between major terminal cities were able to set pricing to by-pass the bridge lines. The bridgelines were mere components in a multi-railroad route between those same major terminals. The single line railroads such as the Union Pacific could keep traffic on its line railroad, thus by-passing the bridge line to reach the same terminals.²²

January 1980 was the month the Western railroad map changed drastically, a process that would go on for the next fifteen years. Union Pacific made bold moves to control rail traffic in the West.²³ UP filed a petition with the ICC showing its intent to merge the Missouri Pacific (Mopac) into its system. Two weeks later, it announced a deal to merge the Western Pacific (WP). Both of these mergers were friendly bids as both Mopac and WP were seeking a merger with a stronger ally. Mopac and WP were in a similar predicament as the Rio Grande, losing ground to large single line railroads around them. Union Pacific's actions were stirred by merger discussions between the Southern Railway and Norfolk Western in the East, thus UP was seeking to be a candidate for the first

20 Frank J. Dooley, and William E. Thomas. *Railroad Law a Decade after Deregulation*, (Westport, Conn.: Quorum Books, 1994), 50.

21 R. W. "Dick" Bridges, "Eighty Candles On The Final Cake," *Milepost* (San Francisco), 1 March 1983, 26.

22 A single line railroad is one that has rail connections to important terminals, and therefore would not need other railroads to move freight between those terminals.

23 William Glasgall, "Union Pacific Steps Up Merger Drive," *The Associated Press* (Wire), 21 January 1980, 1.

true transcontinental railroad.²⁴

The Rio Grande faced the possibility of isolation if it lost gateways at Denver and Colorado Springs with other railroads that would interchange traffic to get that traffic to the West Coast. This was due to the bankruptcy of the Chicago, Rock Island and Pacific Railroad, then the added specter of the loss of the Mopac gateway at Colorado Springs, and the loss of the WP gateway at Salt Lake City, Utah, if the UP merger with these railroads was consummated. The Rio Grande's only remaining gateways would be with Burlington Northern at Denver, Colorado, and Southern Pacific at Ogden, Utah. Compounding this, UP's intentions with respect to the Rio Grande were not well understood by Rio Grande management, as UP owned 10 1/2 percent of Rio Grande's stock.²⁵ Wall Street observers were forecasting that changes to the U.S. railroad map would cause mergers for years to come.²⁶ The problem faced by the Rio Grande was emphasized by James Evans, chairman of Union Pacific: "The balkanization of the railroad industry, so that it has to be both competitive and cooperative, is not the most efficient way of serving rail transportation needs. What is essential on the public interest is not the preservation of small rail carriers."²⁷ This was a hostile business climate that was gaining critical mass around the Rio Grande.

At the end of 1980, Gus Aydelott, the man who guided the Rio Grande through the 1960s and 1970s, announced his retirement as chairman of Rio Grande Industries. Aydelott brought to close a 44 year career with the Rio Grande, having risen from a track worker to the office of railroad president, then chairman of Rio Grande Industries. His successor was Mayfield R. Shilling, President and Chief Operating Officer of Ideal-Basic Industries, Incorporated, a Denver based concrete manufacturer.²⁸ At this time, William Holtman was president of Rio

²⁴ The notion of a true transcontinental railroad is somewhat of a misnomer since the first transcontinental, the Union Pacific and the Central Pacific was not a true transcontinental, since they did not really reach from the Eastern shore coastline to the West Coast. The true transcontinental railroad is made of a series of railroads to accomplish that means.

²⁵ Ibid.

²⁶ Brenton Welling, "Still More Railroad Mergers Are On The Way," *Business Week*, 16 June 1980, 66.

²⁷ Ibid.

²⁸ Rio Grande Industries Annual Shareholders Report, (*Rio Grande Industries* (Denver), 1980), 10 and *PR Newswire*, 29 April 1982, 1.

Grande Industries and the Denver and Rio Grande Western Railroad.

1981 brought little movement in the hearing process before the ICC with regard to UP's mergers. However, this year was not good for American railroads as the U.S. economy entered a recession in the second half of the year, putting pressure on the railroad industries' finances.²⁹ Fortunately for the Rio Grande, the recession of 1981 did not have a great impact, as the railroad continued its rail upgrade programs.³⁰ During the recession, Rio Grande's Board of Directors saw an opportunity to consolidate its stock ownership position, thus tightening control of the railroad in the hands of fewer shareholders.³¹

In order to keep the Rio Grande from protesting UP's merger process with Mopac and WP, the Union Pacific granted Rio Grande an advantageous concession on April 27, 1982. This concession granted the Rio Grande some relief with its gateway issues. In order to clear anti-trust obstacles, the ICC ordered UP to grant trackage rights on their Pueblo, Colorado, to Kansas City line to the Rio Grande, allowing it to solicit traffic from that area.³² This allowed the Rio Grande to maintain at least the Pueblo gateway, and the railroad could open a new traffic market in Kansas City. This action slowed the traffic hemorrhage for the Rio Grande.³³

July 22, 1982, the final arguments over the UP/MP/WP merger were made before the ICC. Parties on both sides argued over whether the merger would reduce competition and cost shippers money. Even the ICC's Office of Special Counsel argued against the merger, with the contention that it would reduce competition in both the West and Midwest. Shipper groups on the proposed line, however, had a different opinion, arguing that competition would improve.³⁴ The Justice Department Trust Division did not oppose the merger because of UP's concession to Rio

29 Rio Grande Industries Shareholders Report (Denver), (*Rio Grande Industries*(Denver), 1981), 8.

30 *The Denver and Rio Grande Western Railroad Company. Annual Report, 1981.* (Denver, CO: Rio Grande Industries, Inc., Denver, 1981), 5.

31 *PR Newswire* January 6, 1982, 1.

32 *The Wall Street Journal*, 27 April, 1982, 21.

33 *Ibid.*

34 Jim, Drinkard, *Union Pacific, Missouri and Western Pacific Merger Argued*, Associated Press (wire), 22 July 1982, Wire Service, 1.

Grande.³⁵ General industry perceptions were that the merger would be good for business.³⁶ The ICC endorsed the merger. Wall Street analysts generally believed there would be more railroad mergers, possibly resulting in six or seven large systems by the end of the 1980s.³⁷ On December 22, 1982, the ICC ruled that UP could assume control of the Missouri Pacific and Western Pacific railroads and by November 19, 1982, the Rio Grande was the subject of takeover rumors.³⁸ Wall Street analysts believed the Rio Grande was weak because its revenue fell 15 percent and its earnings by 34 percent during 1982.³⁹

The management of Rio Grande felt new optimism in February 1983, because the stock market moved into positive territory, there was higher investor confidence and Union Pacific's merger activity gave railroad stock issues new interest on Wall Street. A nationwide truckers' strike also helped to buoy railroad stocks.⁴⁰ In February, Wall Street was not only excited by the news of economic improvement, but also by merger rumors of another Western U.S. railroad. Wall Street speculated that Rio Grande might be a target for the Southern Pacific Railroad Company. Rumors of an acquisition by Southern Pacific, Burlington Northern, or Santa Fe Industries, had been circulating on the Street since the fall of 1982, and continued through the first week of February 1983.⁴¹

On October 10, 1983, Santa Fe Industries and Southern Pacific agreed to merge. Rio Grande's stock immediately dropped as a result of this news. The Wall Street financial analysts believed the Rio Grande was favored to be merged. The Rio Grande was still seen as a buyout candidate because of its substantial cash assets, and the Rio Grande was perceived as weak because it lacked a connection to any two major traffic centers. Wall Street analysts argued that "Without a merger, Rio Grande

35 Ibid.

36 *Journal of Commerce*, 15 September 1982, Section 1, p. 4 column 1.

37 Agis Salpukas, "Rising Pressure is Expected for More Railroad Mergers," *The New York Times*, September 14, 1982, Sect. D, p. 5 Col. 1.

38 Ibid.

39 "Rio Grande Industries Reports 1982 Revenue Losses," *The Associated Press*, 25 January 1983, 1.

40 Alexander R. Hammer, "Dow Advances 2.02; Rail Stocks Climb," *The New York Times*, 4 February 1983, Sect. D, p. 8, Col. 5.

41 "Rail Merger Rumors Grow," *Globe and Mail* (Canada), 7 February 1983, 18. Gene G. Marcial, "Rio Grande May be Losing Steam," *Business Week*, 10 October 1983, p. 96.

could lose a lot of its traffic to the big railroads."⁴²

During this time, financial reporters such as Agis Salpukas of the *New York Times* saw the purchase of the small railroads as "mopping up operations by Wall Street," and the Rio Grande, a small railroad, was losing ground as an important railroad as indicated by decreases in revenue.⁴³ Traffic once brought to the Rio Grande simply bypassed it on the UP through its MP/WP merger. The loss of the Rock Island and the SP and SF merger looming on the horizon also threatened the Rio Grande's survival.⁴⁴

On February 28, 1984, Rio Grande Industries announced it was holding sale discussions with an unnamed company. There was wide speculation that Santa Fe Southern Pacific Corporation was proposing a takeover, but neither Rio Grande President Holtman nor Rio Grande Chairman Schilling would say with whom they were talking.⁴⁵ However, the same factor that forced the Western Pacific to seek shelter with the Union Pacific was threatening the Rio Grande; that is intramodal rate-making by railroads with single-line routes such as the UP.⁴⁶ This was a new freedom enabled by the Staggers Act that did not extend to carriers required to participate with other railroads in joint rates to the same points served by the single-line carrier.⁴⁷

Southern Pacific had formed a more friendly relationship with the Rio Grande after the UP/Mopac/WP merger. Before the merger, SP was treating the traffic it brought to the Ogden, Utah gateway, on a neutral basis. However, after the merger, Western Pacific and Union Pacific were competing against Southern Pacific for traffic, so the Southern Pacific allied itself with the Rio Grande. However, the SPSF merger made the alliance between SP and Rio Grande questionable at best. On May 17,

42 Gene G. Marcial, "Rio Grande May be Losing Steam," *Business Week*, 10 October 1983, 96.

43 Agis Salpukas, "The Transcontinental Looms Larger," *The New York Times*, 13 November 1983, 10, and "Rio Grande Industries Reports 1982 Revenue Losses," *The Associated Press*, 25 January 1983, 1.

44 Ibid.

45 Ripley Watson, *Journal Of Commerce*, 28 February 1984, p. 1 also *PR Newswire*, 27 February 1984 and Agis Salpukas, "Rio Grande In Talks With Suitors," *The New York Times*, 28 February 1984, p. 4.

46 Intramodal is defined as within a mode, or within a single transportation system, in this case a single railroad company's system. Single line rate making means that the single line railroad did not have to quote a customer a rate that included other railroads. Rates quoted would only be across its railroad.

47 R. W. "Dick" Bridges, "Eighty Candles on The Final Cake", *Milepost* (San Francisco), 1 March 1983, 26.

1984, the speculation over Rio Grande's search for a suitor ended when the railroad announced that all discussions with other railroads had ended. The displeasure of Wall Street pushed Rio Grande's stock down 7 points, to 39 from 46.⁴⁸

Philip F. Anschutz, the president of TAC, met with Rio Grande president Holtman in the early spring to explain a plan of acquisition.⁴⁹ In July, Anschutz sent a purchase draft agreement to be considered by Rio Grande's board of directors. On October 1, 1984 the board approved the merger.⁵⁰ On October 2, 1984, William Holtman made a surprise announcement that the Rio Grande had agreed to be acquired by the Anschutz Corp (TAC), a closely held energy and real estate company in Denver, Colorado. The acquisition price for the Rio Grande was \$496.5 million.⁵¹ Holtman said it was in "the best interest of shareholders, the company and its employees."⁵² Wall Street analysts were stumped over the price offered for the railroad, which had annual earnings of \$400 million. The analysts believed the price was low, arguing that the scrap value would be higher than the price paid by TAC. Other analysts argued that the Rio Grande was isolated and that was the best price the railroad could get.⁵³

Anschutz, a self-made billionaire, did not waste any time implementing a decade long exit strategy for his investment in the Rio Grande. On April 17, 1985, TAC filed a preliminary prospectus with the Security and Exchange Commission (SEC) to make a public offering of

48 "Rio Grande," *The Globe and Mail* (Canada), 19-May-1984, 12 and Gene G. Marcial, "The Action in Rio Grande Isn't Over Yet," *Business Week*, 9 July 1984, 93.

49 Agis Salpukas, "Rio Grande Industries Merger," *The New York Times*, 2 October 1984, 8.

50 Kenneth N. Gilpin, "Business People; Anschutz Founder Shuns Limelight," *The New York Times*, 4 October 1984, 2 also *PR Newswire*, 4 October 1984 also "Anschutz Corp. Acquiring Rio Grande Industries And Its Railroad," *The Associated Press*, 1 October 1984 also "Anschutz offers \$50 for Rio Grande shares," *United Press International*, 1 October 1984 also *PR Newswire*, 29 April 1982 also "Executive Changes," *The New York Times*, 28, June, 1982, Sect. D, p. 2, Col. 5 also Agis Salpukas, "Rio Grande Industries Merger," *The New York Times*, 2 October 1984, 8.

51 "Anschutz Corp. Acquiring Rio Grande Industries And Its Railroad," *The Associated Press*, 1 October 1984, 1.

52 "Anschutz Corp. Acquiring Rio Grande Industries And Its Railroad," *The Associated Press*, 1 October 1984, 1 also "Anschutz offers \$50 for Rio Grande shares," *United Press International*, 1 October 1984 and Agis Salpukas, "Rio Grande Industries Merger," *The New York Times*, 2 October 1984, 8.

53 Carol E. Curtis, "Take A Ride On The Rio Grande," *Forbes*, 20 May 1985, 106.

\$80 million to cover the costs of Anschutz's investment in the railroad.⁵⁴ The securities were issued on May 3, 1985, when Rio Grande Industries offered \$180 million of debt securities through Morgan Stanley & Company. Proceeds from the sale of the securities went to repay the bank loan used by Anschutz to acquire Rio Grande. Anschutz immediately started reducing his personal liability in the Rio Grande purchase.⁵⁵

Wall Street analysts were skeptical about TAC's intentions. They did not understand why Anschutz wanted with the Rio Grande, as the railroad had lost of most of its major gateways and the looming Santa Fe and Southern Pacific (SPSF) merger was endangering its gateway access at Ogden, Utah and the West Coast. Anschutz used Rio Grande's assets as collateral, including a \$200 million dollar cash reserve built up over many years, to borrow the money to purchase the railroad. This maneuver allowed Anschutz to purchase the railroad without any out of pocket cash, but depleted the Rio Grande's cash position.⁵⁶ To assure Rio Grande's survival would mean a fight with SPSF over its impending merger.

Anschutz's legal department petitioned the ICC to force the sale of more than 1,200 miles of Southern Pacific track to the Rio Grande for competitive reasons. The Rio Grande was not alone protesting the SPSF merger. Three other railroads filed requests for trackage rights: Kansas City Southern, the Missouri-Kansas-Texas and the Texas-Mexican. During the hearings before the ICC, shippers voiced concern over the shrinking number of railroads, as competitive pressures were diminishing. The number of small railroads had decreased from 13 to seven. Some shippers saw the small railroads as a way to provide competition against the growing railroad behemoths.

What was ignored by SPSF was the fact that Southern Pacific and ATSF were essentially parallel lines accessing the same railroad markets. Any attempt to merge them would bring scrutiny by the Justice Department (DOJ) to see if any trust laws were violated. In this case as predicted the DOJ filed briefs before the ICC arguing trust violations

54 Carol E. Curtis, "Take A Ride On The Rio Grande," *Forbes*, 20 May 1985, 106 and *PR News-wire*, 17 Apr 1985, 1.

55 "Finance /New Issues; Rio Grande Industries Offer," *The New York Times*, 3 May 1985, 16 and Carol E. Curtis, "Take A Ride On The Rio Grande," *Forbes*, (20 May 1985): 106.

56 Ibid.

in the SPSF merger. The DOJ argued for a case of monopoly and the ICC took it under serious consideration.⁵⁷ This was an opportunity for Anschutz to exploit the situation.

In hearings before the ICC, the Rio Grande argued that the Southern Pacific would route West Coast traffic off the central corridor (the central U.S. of which the Rio Grande is part) to the southern corridor through Arizona, New Mexico, into La Junta, Colorado, then to Chicago.⁵⁸ As the legal proceedings were playing out, SPSF remained optimistic that the merger would be approved and was quickly painting locomotives in a new red and yellow paint scheme reflecting the merger.⁵⁹ To the surprise of SPSF its case was dismissed on July 24, 1986, by the ICC. The board's decision was its duplicate routes constituted a monopoly.⁶⁰

On December 1, 1986, Santa Fe Southern Pacific Corporation appealed to reopen the SPSF merger case. The railroad filed a brief showing an agreement between SFSP and UP to settle the adverse competitive issues brought by the original ICC decision. The agreement was to placate shipper's concerns over competition. The agreement essentially divided the West Coast traffic between SPSF and UP. Union Pacific argued that it could provide shippers with an alternative for traffic moving to and from California through the southern corridor of Arizona and New Mexico.⁶¹ This could be accomplished with reciprocal trackage rights between SPSF and UP. The memorandum signed January 28, 1987, between SPSF and the UP was an agreement that was supposed to help smooth the process for the merger of SPSF before the ICC.⁶²

In the memorandum, SPSF granted the Rio Grande a lease of SPSF routes in Utah, California, Nevada, and Oregon. The Rio Grande received rate-making access to and from the Los Angeles area via

57 Agis Salpukas, "Colorado Railroad Locked In Battle," *The New York Times*, 29 November 1985, 3.

58 Agis Salpukas, "Colorado Railroad Locked In Battle," *The New York Times*, 29 November 1985, 3 and *Handy Railroad Atlas Of The United States*, (Chicago, Rand McNally & Company, 1 January 1980), 11.

59 Barry P. Maxfield, "SD9 in Kodachrome Colors at Ogden SP Engine House Summer 1989," *Utah Valley University Library Special Collections*, Summer 1989, Ref # 01087.

60 Merrill Perlman, *Week* "In Business; Santa Fe Suffers A Stunning Refusal," *The New York Times*, 27 July 1986, Sect. 3, p.16.

61 *PR Newswire*, 1 December 1986, 1.

62 *Ibid.*

Bakersfield. The ICC was unimpressed by the petition to reopen the SPSF merger case, however, and voted against it on June 30, 1987.⁶³ The ICC ordered the Santa Fe to divest itself of the Southern Pacific for competitive reasons, forcing railroads into a scramble never before seen to maintain or gain market share in the West.⁶⁴

On August 24, 1987, Santa Fe announced its divestiture plan, saying that the Santa Fe Pacific Incorporated Holding Company would retain the Atchison, Topeka and Santa Fe Railway and sell Southern Pacific.⁶⁵ Santa Fe told the ICC that it would start taking bids for SP by mid-September. Santa Fe had worked out four scenarios for selling the SP: a possible sale to employees; selling Southern Pacific to another railroad or a non-railroad company; spinning off the railroad shares to Santa Fe Southern Pacific Corporation shareholders and making the railroad an independent, publicly held corporation with stock traded on the open market; or sell major parts of Southern Pacific to other railroads that were in a position to provide extended single-line service to shippers.⁶⁶ However, before any decisions to sell SP were made, two potential buyers emerged. They were the Rio Grande and the Kansas City Southern Railroad (KCS). KCS had a proposal to take the routes it wanted and then sell the balance to the Rio Grande.⁶⁷

In addition to bids from Rio Grande and Kansas City Southern, by October 15, 1987, the Santa Fe Southern Pacific Corporation received bids from the Railway Labor Executives' Association that offered \$750 million and an assumption of long-term debt and other liabilities. Other bidders included the Henley Group Incorporated, Guilford Transportation Industries and a Southern Pacific Management Group.⁶⁸ The bids submitted were cash offers that ranged from \$750 million dollars to

63 "Santa Fe Files Divestiture Plan For Southern Pacific," *The Associated Press*, 4 September 1987, 1.

64 Merrill Perlman, "Week In Business; Santa Fe Suffers A Stunning Refusal," *The New York Times*, 27 July 1986, Sect. 3, p.16.

65 Bryan Burrough And Judith Valente, "Kansas City Southern Would Sell Part Of Railway It Seeks To Buy, Source Says," *Wall Street Journal*, 24 August 1987, 29.

66 Ibid.

67 Ibid.

68 "Sale of Southern Pacific in Hands of ICC," *The Associated Press*, 10 January 1988, 1 also Kurt Eichenwald, "Santa Fe Receives Bids for Southern Pacific Unit," *The New York Times*, 16 October 1987, 2 and "Company News; Southern Pacific Has 5 Offers," *The New York Times*, 25-Nov-1987, 3.

\$1.02 billion dollars.⁶⁹

December 29, 1987, was a rancorous day in Western railroading. The Santa Fe Pacific Corporation announced its choice of Rio Grande as the buyer for Southern Pacific. On December 31, 1987, Santa Fe Southern Pacific Corp. filed its petition with the ICC. The announcement and filing with the ICC brought angry responses from the other bidders. The Henley Group, the SP Workers Union, and KCS all vowed to fight the petition on the grounds that their petitions were as valid as Rio Grande's. KCS prepared to submit a bid directly to the ICC in an effort to get it to overturn SF's acceptance of the Rio Grande bid. KCS claimed that its bid was "substantially higher, [and] has fewer regulatory problems."⁷⁰

On January 10, 1988, the ICC, on an expedited schedule, started work on the merger, sorting through the objections from those whose bids were rejected.⁷¹ Santa Fe announced that Rio Grande's offer was the best as it offered more cash and it came with bank commitments. This included the sale of 25 percent of the railroad to the Morgan Stanley Leveraged Equity Fund I.⁷²

Anschutz knew the business model to help the petition through the ICC; it was the same one used when TAC acquired the Rio Grande. This meant having overwhelming shipper support to present at the hearings. The Rio Grande committed to honor existing labor contracts, and in return received the unanimous support of the unions representing Southern Pacific workers.⁷³ Anschutz had the very best legal advice going into the merger hearing. His lawyers were from the Denver law firm Holmes, Roberts & Owen, LLC, a firm well experienced in complex mergers. A bonus for Anschutz came on April 11, 1988, when a federal jury ruled against KCS Industries, ordering it to pay an indeterminate award as high as \$844.2 million to the state of South Dakota in a case that dated back to the 1970s. South Dakota had sued, alleging that Kansas City Southern conspired to restrain trade in the coal transportation market, causing South

69 Ibid.

70 "Kansas City Southern Still To Pursue SPTCO," *PR Newswire*, 28 December 1987, 1 and Paula A. Driscoll, "Objections Arise to Planned Sale of Southern Pacific to Rio Grande," *The Associated Press*, 28 December 1987, 1 and "Kansas City Southern Still To Pursue SPTCO," *PR Newswire*, 28-Dec-1987, 1.

71 "Morgan Stanley Fund Becomes Equity Partner In Rio Grande," *PR Newswire*, 22-Feb-1988, 1.

72 Ibid.

73 Ibid.

Dakota to lose a contract with Energy Transportation Systems Inc. South Dakota had contracted to provide Energy Transportation Systems with necessary water to operate their coal slurry pipeline.⁷⁴ Such a liability could be damaging for KCS before the ICC. Kansas City Southern appeared undaunted and on May 9, 1988, it announced that its lawyers filed an application with the ICC asking the commission to authorize Kansas City Southern, and not the Rio Grande, to purchase SP for anti-competitive reasons.⁷⁵

In the July 1988 hearings, lawyers for the Rio Grande effectively argued that it was in a better position to buy the Southern Pacific and that Kansas City Southern was facing a \$600 million settlement with South Dakota on the coal slurry pipeline project. The only argument that KCS used to counter the claims made by SP was the fact that it would spend more money to rehabilitate the SP.⁷⁶ The KCS defense was unconvincing to the ICC. The legal fight over the South Dakota issue lasted until June 28, 1989, when a jury, sitting for the 8th U.S. Circuit Court, threw the case out for lack of evidence. By then it was too late for KCS to do anything about the SP purchase.⁷⁷

On August 9, 1988, the ICC commissioners voted 4-0 to approve the sale of the SP to the Rio Grande. The reclusive Anschutz, in a rare news conference that same afternoon, applauded the ICC decision and went on to explain that the Denver and Rio Grande Western and Southern Pacific Transportation would operate under the SP banner, because it was the larger and better known of the two railroads.⁷⁸ Anschutz stated that his priority was to reduce Southern Pacific's debts by selling some of its real estate holdings. He also said that he was going to modernize the railroad's locomotive roster and upgrade the physical plant. Anschutz explained that the management of the combined railroads would be

74 Kurt Eichenwald, "Antitrust Verdict Impedes Kansas City Southern's Bid," *The New York Times*, 11 April 1988, 22.

75 "Kansas City Southern Industries Files With ICC," *PR Newswire*, 9 May 1988, 1.

76 "I.C.C. Hears 2 Rail Offers," *The New York Times*, 29 July 1988, Sect. D, p. 13, Col. 2.

77 "Panel Backs Southern Pacific Acquisition by Rio Grande Industries," *The Associated Press*, 9 August, 1988, 1 and "Kansas-City-So-Ind; (KSU) Kansas City Southern Industries Vindicated in South Dakota Appeal," *Business Wire*, 28 June 1989, 1.

78 Josef H. Hebert, "ICC OKs Railroad's Sale," *The Associated Press*, 9 August 1988, 1 and Josef H. Hebert, "ICC OKs Rio Grande Purchase of Southern Pacific," *The Associated Press*, 9 August 1988, 1.

selected from both rail lines.⁷⁹

Wall Street did not react well to SP's acceptance of the Rio Grande's bid. On the same day as the announcement, Standard and Poor's placed Rio Grande's double-'B'-plus rated subordinated debt on S&P CreditWatch. This debt was about \$180 million, borrowed by Anschutz to purchase the Rio Grande. Wall Street saw Rio Grande debt as a risk because it was one of America's most heavily leveraged railroad companies. Wall Street was not concerned that Rio Grande, in addition to SP, would be the major player in the central corridor and southern transcontinental routes.⁸⁰

To finance the \$1.8 billion needed to close his acquisition, Anschutz turned to Morgan Stanley to broker the sale of \$200 million worth of bonds. The biggest piece of financing was a \$700 million dollar secured loan from a group of banks, with Security Pacific National Bank being the major lender. Anschutz raised another \$111 million in equity through a Morgan Stanley investment fund. In return, the fund received 20 percent of Southern Pacific ownership. Anschutz had pulled off what many considered impossible, purchasing SP without a penny of his own money.⁸¹ On October 13, 1988, Anschutz took over as chairman of the board of Southern Pacific. What he accomplished with the purchase of Southern Pacific was to salvage the ailing Denver & Rio Grande Western Railroad, creating the fifth-largest railroad in the U.S. and giving the Rio Grande important terminal points.⁸²

Central Pacific Railroad, SP's forerunner, had never reached Chicago, the United States main rail hub. Likewise, over a period of decades, the Southern Pacific tried to reach Chicago. Anschutz believed that the survival of the new SP was relying on his ability to originate traffic in Chicago. On June 2, 1989, Rio Grande Industries announced that it was negotiating to buy 500 miles of railroad track between Kansas City and Chicago from the Minneapolis, St. Paul and Sault Sainte Marie

79 Ibid.

80 *PR Newswire*, 29 December 1987, 1.

81 "Anschutz to Finance Rail Buy with Bond Offering," *The Associated Press*, 23 August 1988, 1 also "S&P Creditwire," *PR Newswire*, 26 September 1988, 1 and William P. Barrett, "Working Over The Railroad," *Forbes*, 31 October 1988, 51.

82 William P. Barrett, "Working Over The Railroad," *Forbes*, 31 October 1988, 51. and "Anschutz Completes Southern Pacific Purchase," *The Associated Press*, 14 October 1988, 1.

Railroad (SOO Line), another small railroad located in the Midwest and surrounded by merged giants.⁸³ On June 28, 1989, Southern Pacific railroad announced that it had reached an agreement with SOO Line at a cost of \$86 million. The agreement would have given SP trackage rights on the SOO Line to Milwaukee, Wisconsin, and Dubuque, Iowa.⁸⁴ However, the plan to buy the SOO Line trackage was premature, as the purchase would involve ICC hearings, shipper approval, and most likely incite protests from other rail lines that served the Midwest, such as Union Pacific, KCS and Norfolk Western.

Anschutz hedged his bet by purchasing out of the U.S. Bankruptcy Court a rail line that reached Chicago. On November 1, 1989, the state of Illinois, desperate not to have the bankrupt Chicago, Missouri and Western Railway Company (CM&W) shut down, pushed hard to close a deal with SP for the CM&W Chicago mainline. An agreement was reached with the CM&W trustee hours before the scheduled shutdown of the rail line. Under this agreement Rio Grande paid \$21.5 million for the line and started operating it on the evening of November 8, 1989.⁸⁵ Rio Grande also paid \$1 million in start-up expenses and assumed responsibility for \$11 million in loans the state of Illinois had made to keep the bankrupt railroad operating. The line ran 632 miles from Kansas City to Joliet and then to Chicago via trackage rights.⁸⁶ The application to buy the 532-mile Kansas City-to-Chicago route of the SOO Line remained before the ICC.⁸⁷

On June 26, 1990, the ICC approved SP's purchase of SOO Line's Chicago extension. On August 1, 1990, the Rio Grande SP announced it had terminated the agreement with SOO Line. Rio Grande's position was that it was facing the specter of a long court fight from the Chicago

83 "Rio Grande trying to buy own rail line to Chicago," *United Press International*, 2 June 1989, 1.

84 "Rio Grande buys line to Chicago for \$86 million," *United Press International*, 28 June 1989, 1.

85 Dan Shomon Jr., "Plan devised to save CM&W rail line," *United Press International*, 11 October 1989, 1 also Brenda C. Coleman, "Sale of North-South Line Approved, Service to Continue Uninterrupted," *The Associated Press*, 9 November 1989 also "SO-PACIFIC-TRANSPORT; Southern Pacific Transportation Co. Agrees to Buy Rail Line of the Chicago, Missouri & Western Railway Co.," *Business Wire*, 3 August 1989, 1 and Jason Moody, *States News Service*, 6 October 1989, 1.

86 Cliff Edwards, *Judge Approves Sale of Rail Company's North-South Line*, The Associated Press, 1 November 1989, 1.

87 "Southern-Pacific; The Southern Pacific railroad system reaches Chicago," *Business Wire*, 8 November 1989, 1 and "Southern Pacific Railroad to Buy St. Louis-Chicago Line," *The Associated Press*, 4 August 1989, 1.

& North Western Railroad that would not transfer interest in trackage owned jointly with the SOO Line. The Rio Grande announced that it reached an agreement to operate between Chicago and Kansas City with the Burlington Northern railroad on a trackage right agreement. The SP trains would be operated by SP crews and locomotives.⁸⁸

Rio Grande's and SP's finances remained a mystery to Wall Street analysts. Beyond the original cash stake in the Rio Grande, Anschutz did not put any of his own money into the SP purchase, yet he controlled 71% of the parent company. His minority partner, Morgan Stanley, raised \$111 million through the sale of stock and raised another \$75 million in a private placement of preferred shares. Morgan Stanley's 20% share of Rio Grande Industries was reduced to 19% after Nippon Yusen Kaisha took a 5% stake in the railroad. Wall Street was generally puzzled over Anschutz's stubbornness, hanging onto railroads that Wall Street believed were troubled. The pundits could not understand why he did not sell parts of the railroads of interest to other railroads, especially since Santa Fe was making overtures about purchasing SP's Cotton Belt lines.⁸⁹ In 1991, SP's cash flow was \$200 million, a far cry from the \$300 million a year needed for capital expenditures in physical plant and the over \$100 million in annual debt service.⁹⁰ Santa Fe and other Wall Street pundits believed that Anschutz would benefit by cashing out and splitting up SP.⁹¹

Anschutz maintained that he would fight to make his railroad profitable. The company had real estate among its assets; in 1991, it sold 175 miles of railroad right-of-way to Los Angeles County for over \$400 million, to develop commuter rail corridors.⁹² Furthermore, SP had six gateways in Texas and Arizona leading into Mexico which were more gateways than any other railroad. This was important as trade with Mexico was booming due to increasing imports/exports linked to the implementation of NAFTA. SP's biggest competitor, the Union Pacific,

88 "Rio Grande Industries purchases SOO Line Railroad from Kansas City to Chicago," *Business Wire*, 26 June 1990, 1 and "Rio Grande Industries Terminates Agreement With SOO Line," *Business Wire*, 1 August, 1990, 1.

89 "Why Does Billionaire Phil Anschutz Hang on to the Ailing Southern Pacific Railroad? Is It Stubbornness? Or Guile?," *Forbes*, 3 February 1992, 26.

90 Ibid.

91 Ibid.

92 "Southern Pacific Transportation Company Annual Report," *Southern Pacific Transportation Company* (San Francisco), 31 December 1991, 26.

had only three entrances into Mexico.⁹³

In May 1993, in what appears as further implementation of an exit strategy from the railroad business, Anschutz surprised the Wall Street critics by announcing an initial public offering (IPO) of Southern Pacific stock for \$550 million of common stock held by the company. Anschutz and the other stockholders of the company were not going to sell their shares of stock in the IPO. The IPO would reduce the company's debt service, while giving it more financial flexibility.⁹⁴ By this time, Anschutz had turned an investment of \$90 million into more than \$1.4 billion of equity in SP in less than a decade.⁹⁵

On August 10, 1993, Southern Pacific stock began trading on the New York Stock Exchange. Investors gave the IPO a warm reception, defying SP critics. Thirty million shares of common stock sold at a price of \$13.50 a share. By the end of the day, the stock was up from \$1.25 to \$14.75.⁹⁶ With the success of his IPO, Anschutz started a heavy program of plant rationalization to eliminate unprofitable, lightly used branchlines. The company had 2,300 miles of low-density, high cost branch lines to sell or abandon. By December 31, 1993, the company had sold, leased or abandoned approximately 835 miles. In order to increase income, SP had solicited approximately 21,000 leases with rental income that totaled nearly \$43 million, all from uses of its rights of way for such purposes as advertising signs, fiber optics lines, and utility pipelines.⁹⁷

Phillip Anschutz was resilient facing all criticism that came his way; he had the last laugh. All the critics of his railroads were proven utterly wrong. With the mastery of the deal, he found the right opportunity with absolute timing; he found a buyer for his railroads. On October 20, 1995, Union Pacific Railroad announced a proposed merger with Southern Pacific that would be the largest railroad merger in the history of

93 Ibid.

94 "Southern Pacific Rail Corporation to Offer Shares to Public," *Business Wire*, 13 May 1993, 1.

95 Allan Sloan, "For Anschutz, Working on the IPO Beats Working on the Railroad," *The Washington Post*, 8 June 1993, 12 also "Southern Pacific Rail Corporation to Offer Shares to Public," *Business Wire*, 13 May 1993, 1 and "Southern Pacific Rail Corporation Announces Initial Public Offering Of Common Stock And Concurrent Offering Of Senior Notes," *Business Wire*, 10 August 1993, 1.

96 "Southern Pacific Rail goes public," *United Press International*, 10 August, 1993, 1.

97 "Southern Pacific Rail Corp Annual Report," *Southern Pacific Rail Corp* (San Francisco), 31 December 1993, 17.

the United States.⁹⁸ The railroads requested an expedited ICC proceeding schedule of 255 days, so the merger would be complete by the summer of 1996. UP took a page from the Anschutz playbook and rounded up more than 1,000 customers to endorse the merger.⁹⁹ The merger did not prevent rancorous hearings that generated a flurry of paperwork, protests and requests for trackage rights from small shippers, small railroads, and shortlines that stood to lose a competing railroad. Burlington Northern and Santa Fe Railroad (BNSF) protested, as did Utah Railway, that the UP/SP merger would create a monopoly. These arguments threatened to derail the proceeding. Then Montana Rail Link came in with the boldest request to the Surface Transportation Board¹⁰⁰(STB), it wanted to purchase the D&RGW Salt Lake mainline, Tennessee Pass and the ex-Mopac line to Kansas City.¹⁰¹

On September 11, 1996, without any fanfare, with approval of the STB, the Union Pacific Railroad took over the Denver and Rio Grande Western and Southern Pacific. Anschutz prolonged the life of both the Rio Grande and the SP. Today they still exist as physical entities under the Union Pacific banner. Both railroads were failing as a result of the business environment in the 1980s. Whether Anschutz entered the railroad business to save moribund railroads has often been wondered. This point is simple to examine with the evidence at hand. Railroads are about right-of-way, Anschutz found a way to use that right-of-way to his greatest financial advantage. In 1983, Anschutz and an equity partner Jay Pritzker attempted a takeover of International Telephone and Telegraph, a conglomerate that among other things had worldwide telephone operations.¹⁰² Their bid failed, but in 1983, these two partners

98 Joe Ruff, "Union Pacific Merger Expected to Chug Through Any Opposition," *The Associated Press*, 28 June 1996, 1.

99 "Union Pacific Issues Announcement Regarding Proposed Merger," *PR Newswire*, 20 October 1995, 1.

100 The Surface Transportation Board of the United States is part of the U.S. Department of Transportation. The Surface Transportation Board replaced the ICC on December 31, 1995, ending much of the federal authority that leveled the playing field for the Rio Grande against its giant neighbors.

101 Ann Imse, "Hostile Bid For D&RGW Montana Rail Links Offer Byline Would Create Third Big Western Railroad," *Rocky Mountain News*, 27 February 1996, 3.

102 William H. Meyers, "How Magnates Pick Partners," *The New York Times*, 27 March 1988, 2-3 and FundingUniverse.com, 3630 W. South Jordan Parkway, South Jordan, UT 84095. FundingUniverse connects qualified entrepreneurs with active Venture Capitalists, investors and other lending sources. Fund-

attempted a takeover of the Southern Pacific Railroad. Southern Pacific had at that time a few miles of fiber optic cable and a subsidiary, SP Telecom, with a mission to lay fiber optic lines along the railroad for lease to telecommunications companies; that bid also failed.¹⁰³

May 1984 was an important month for Anschutz. He picked up a deal on a railroad that was being devalued because of competition and regulation. This railroad, the Rio Grande, had two thousand miles of railroad right-of-way practically in Anschutz's back yard for him, it was simple: buy the railroad and make it valuable again. Most importantly, it had right-of way to lay fiber optic cable.

In 1986, Prtizer and Anschutz attempted to buy the Western Union Company another communications giant, but that bid failed. August 1988 became a watershed moment for Anschutz. He finally purchased the Southern Pacific Railroad and formally organized the SP Telecom subsidiary as a legal entity.

In 1991, SP Telecom separated from Southern Pacific, but retained the right to lay fiber optic cables along the SP railroad right-of-way. Anschutz organized another subsidiary, SP Construction (SPC), that operated cable-laying trains. SPC dug trenches, dropped fiber optic cables in them and buried them as the train crept along the railroad at about 5 mph. This work started immediately in 1987, with reports of the trains operating on various parts of the consolidated SP system.¹⁰⁴ In Utah, the photographic evidence shows a train laying cable in Spanish Fork Canyon during the summer of 1995.¹⁰⁵

In 1995, Anschutz moved aggressively to enter the telecommunications market. It was always about timing with Anschutz;

ing Universe reports on Qwest and Southern Pacific for the purpose of tracking the company's histories are found at <http://www.fundinguniverse.com/company-histories/Qwest-Communications-International-Inc-Company-History.html> (accessed 22 March 2010) and <http://www.fundinguniverse.com/company-histories/SOUTHERN-PACIFIC-TRANSPORTATION-COMPANY-Company-History.html> (accessed 22 March 2010) respectively.

103 Ibid.

104 The consolidated system was the Southern Pacific Railroad, The Saint Louis and Southwestern Railroad (Cotton Belt), The Northwestern Pacific and the Denver and Rio Grande Western Railroad. The reports of the cable laying trains would surface from time to time in railfan magazines such as CTC Board, Pacific Rail News and Flimsies in their columns on the Southern Pacific.

105 Barry Maxfield, "SP Fiber Optic Train at Billie's Mountain," *Maxfield Railroad Photo Collection*, Utah Valley University Library, Special Collections, 1995, unnumbered section.

he had the patience. The opportunity presented itself when Anschutz purchased Qwest Communications. He immediately consolidated SP Telecommunications into it. Later in the year, Anschutz took over the company. Then in a secretive move that Wall Street never expected, Union Pacific bought the consolidated Southern Pacific Railroad, minus the fiber optic lines next to the railroad track.¹⁰⁶

There can be no argument that Anschutz has been a shrewd and savvy businessman. In a decade, he took over railroads and used them to build a telecommunications empire; he did it with precision and patience. It can be argued that he sold out the Rio Grande's independence and did the same to Southern Pacific. It can be equally and effectively argued that he prolonged these railroads' lives.

It appears that Anschutz merely spotted a trend and followed it. This became an opportunity to make money. What Anschutz did was take a railroad that was becoming moribund by the changes forced on it by the climate of deregulation and merger. These changes came about in order to make the railroading business more efficient. The Rio Grande would not have survived had it not been taken over by Anschutz. There remains the possibility that it may have disappeared completely like other moribund and redundant railroads like the Chicago, Rock Island and Pacific or the Chicago, Milwaukee, St. Paul and Pacific Railroad. The Rio Grande was had become redundant and was not necessary in the Transcontinental rail network. Anschutz breathed life into and prolonged its existence until such time that the Union Pacific would take it over.

The disappearance of the Rio Grande as a legal entity, and the fact that its physical plant has been reduced to minimal use is an indicator of America's economy. The railroads that once hauled goods from America's factories to the end users are disappearing. These losses coincide with the outsourcing of manufacturing to foreign nations. Meanwhile, the railroads that are positioned to move imported merchandise for the consumerism that has become the reality of the American economy, flourish. Union Pacific now boasts a three track wide "speedway" on part of their system where the countless container trains to supply stores such as Wal-Mart can now run unhindered to warehouses and the end consumer. The balance of the American rail system is being slowly

shunned in this wake, seemingly without consideration of long term cause and effect. It can be said, as goes the American economy, so goes the American railroad, and thus went the Rio Grande.

Biographical Notes

Barry Maxfield has a lifelong interest in western railroading especially the Denver and Rio Grande Western Railroad. When the Rio Grande disappeared from the western railroad scene the author felt it would be appropriate to write its final chapter. This project was to meet the requirements of a history degree at Utah Valley University. Maxfield graduated in the spring of 2010 with a BA in general history and is planning to seek a Masters Degree in history. He lives with his wife and son in Santaquin, Utah.

Kerouac's Fragmented Identity: The Beat Generation's Troubled Leader

Brian Thredgold

Scholars who attempt to differentiate Jack Kerouac's cultural image from his actual history find themselves lost in a swirl of half-truths and contradictory statements. The first of many obstacles which the scholar must overcome is the wealth of information written about Kerouac's life by scholars and himself. Matt Theado, a Kerouac biographer, asserts that, "Kerouac's published work presents an unwieldy accretion. His books include fiction, poetry, non-fiction, selected letters, religious writing, and the 'true-story' novels for which he is most famous."¹ Kerouac wrote his "true-story" novels in a non-fictionalized first person narrative. Joshua Kupetz, another Kerouac biographer, explains that the volume of Kerouac's writing makes for a difficult character study because "more than that of most novelists, Kerouac's 'fiction' is largely autobiographical."² *On the Road*, the most famous of these "true-story" novels, has divided historians and biographers attempting to draw conclusions concerning Kerouac's life since its publication in 1957. Add to that the vast quantity of material that Kerouac used to describe himself, and any reader can see that attempting to constrain Kerouac to his pop-culture image or his historiography is, perhaps, impossible.

This paper explores Kerouac's life, his masterpiece *On the Road*, and The Beat Generation movement which expanded overnight because of the reception of the novel. While trying to characterize Kerouac, it is important to remember that he meant so many things, at so many times, to so many people. Kerouac was bohemian, Catholic, Buddhist and atheist. He was an absentee father, a drug user and a drunkard, an intellectual and a base man. He represented the Beat generation while he rejected it at the same time. He implored men the world over to stop drinking and apologize to their wives for their mistakes, but he remained estranged

1 Matt Theado, *Understanding Jack Kerouac* (Columbia: University of South Carolina Press, 2000), 1.

2 Joshua Kupetz, "The Straight Line Will Take You Only to Death." *On the Road: The Original Scroll* (2007): 84.

from two of his three wives and stayed with his alcohol until it killed him. Kerouac's life was vast, so biographers who claim to know who Jack Kerouac "was" are bound to be right, to a certain degree: "In telling the story of (Jack Kerouac's) life, it's impossible to separate the fact from the fiction, the man from the myth... It doesn't always make sense, and most of it never happened. But that's the kind of story (Kerouac's) is."³

"Jean Louis (Jack) Kerouac was born March 12, 1922, in Lowell, Massachusetts, a mill town on the Merrimack River."⁴ The beginnings of Kerouac's life aren't difficult to grasp. Kerouac, by all accounts, was a well adjusted boy. However, one tragic event occurred during his childhood that continued to influence his writing and psyche. His older brother, Gerard, died of rheumatic fever when Kerouac was just four years old. "Gerard's death after a two-year illness left a vacancy in the Kerouac household and a continuing guilt for the remaining brother, who pondered that it should have been him, the less worthy one, to have died."⁵ The loss of his brother affected Kerouac throughout his life. Kerouac continuously looked for male companions, such as Allen Ginsberg, Neal Cassady, and William Burroughs, to fill the void created by his brother's death. Death and suffering, along with a search for brotherly kinship, became the focus of many of his later writings.

In contrast to a somber youth, Kerouac was the quintessential American teenager. Theado describes Kerouac as "a standout athlete, excelling at baseball, football, and track... Yet, Kerouac was more than a jock at Lowell High School; he was an excellent student as well. His future seemed bright, for he was at once athletic and intelligent, popular with other students, and admired by girls."⁶ From an early age, Kerouac's greatest desire was "to be a great writer."⁷ However, Kerouac placed his writing on hold when he was awarded a scholarship to play football at Columbia University. "Although he showed promise as a halfback, he broke his leg early in his first year and did not play the rest of the

3 Daniel Wallace, *Big Fish: A Novel of Mythic Proportions* (New York: Penguin Books, 1998), 12.

4 Theado, 12.

5 Ibid., 12.

6 Ibid., 13.

7 Ibid., 9.

Kerouac’s broken leg may have been one of the most significant injuries for both the 1960’s counter-culture movement and 20th century American literature. While recovering from his injury at Columbia, Kerouac met seventeen-year-old Allen Ginsberg, a freshman, and the two became inseparable. Ginsberg filled some of the brotherly void left by Gerard’s death, and “like Kerouac, Ginsberg was not shy about his literary aspirations.”⁹ Ginsberg and Kerouac, both extremely intelligent and well-read, made another friend in William Burroughs. Literary critics and scholars later referred to these three as the “beat poets,” after the movement they spawned. Rather than focus on their schooling, the three poets chose to study “the Russian novelist Fyodor Dostoevsky. These young men were attracted to the underground scene, lured by criminality.”¹⁰ Dostoevsky himself was known for his unconventional writing style. He was a pioneer of the “stream-of-consciousness” movement which Kerouac evinces in many of his works. Dostoevsky’s literature also dealt with crime, philosophy and maligned groups of people – the outcasts of society. All of these themes would be the cornerstones of Kerouac’s writing.

Kerouac later met another future beat poet – Neal Cassady. Kerouac wasn’t impressed initially with Neal, but he “soon came to see him as a new kind of American hero, one who would show him new ways of written expression and who would serve as the hero of some of Kerouac’s best books.”¹¹ Cassady, however, wasn’t a typical 1950’s American hero.

Cassady, the “hero” of *On the Road* had, “according to legend... stolen five hundred cars and been to bed with five hundred women by the time he was eighteen.”¹² Kerouac wrote that Cassady’s “criminality was not something that sulked and sneered; it was a wild yea-saying overburst of American joy.”¹³ Kerouac embraced Cassady’s wildness

8 Ibid., 15.

9 Theado, 15.

10 Ibid.

11 Theado, 18.

12 Ibid., 18.

13 Jack Kerouac, *On the Road* (New York: Penguin Books, 1991), 7.

and romanticized it in *On the Road*. Millions of young people embraced the same, seemingly-contradictory practice of “overburst(ing) with American joy” by way of subverting traditional American values.

Cassady inspired the type of writing that made Kerouac famous. Cassady was sharp witted but uneducated when he met Kerouac, in fact he was unable to read or write. Kerouac taught Cassady to do both. Eventually, Cassady mastered the language and wrote Kerouac a long letter that Kerouac “recognized as a masterpiece worthy of Dostoevsky.”¹⁴ The rhetorical style of the letter forever influenced Kerouac’s writing, creating the type of wild, emotional, first-person prose that academia later recognized as Kerouacian: “he was especially impressed that Cassady held nothing back in the letter, that he incorporated ‘painfully necessary’ details of his thoughts as well as specific locations, measurements and chronology” – all of which *On the Road* was later recognized for. “Kerouac saw the importance of reliance on direct experience, and he suddenly changed as a writer. He would no longer fictionalize...Instead, he would write from his life directly.”¹⁵

This “direct” writing style resulted in Kerouac’s most recognized and respected work – *On the Road*. Kerouac’s masterpiece chronicles Neal and Jack’s quest across North America in search of women, booze, drugs and “kicks.” During this time in his life, Kerouac lived “for joy, for kicks, for something burning in the night.”¹⁶ *On the Road* is the mostly-autobiographical sketch of their time together. The book details a three years-long journey across the United States three times and into Mexico, the promised land. The book was revolutionary for its time. Kerouac romanticized promiscuity, drug use, alcohol binges, theft, misogyny, extra-marital affairs, sabotage against friends and practically every other anti-American, anti-Christian activity that a traditional conservative could imagine in the 1950’s.¹⁷

Kerouac wrote the entirety of *On the Road* on one continuous scroll that he fed through his typewriter. When he finished writing, he had a one-hundred and twenty-seven foot, single-spaced scroll without

14 Jack Kerouac, *Selected Letters: Volume 1: 1940-1956* (New York: Penguin Books, 1996), 242.

15 Theado, 20.

16 Jack Kerouac, *On the Road: The Original Scroll* (New York: Penguin Books, 2007), 281.

17 Peter Tamony, “Beat Generation: Beat: Beatniks,” *Western Folklore* 28 (1969): 274-277.

page breaks and very little punctuation. The entire process of writing the novel took just over three weeks.¹⁸ The history of the scroll only added to the legend of the book. Kerouac's "unconventional style and medium caused as much of a sensation as the content did."¹⁹

When finally published, the original text was highly edited. The scroll, as it later became known, contained numerous instances of homosexuality which were taken out by the publisher, Viking. Editors spent considerable time punctuating and reforming Kerouac's prose into a more "acceptable" grammar and form of narration. Kerouac reluctantly obliged, only because he needed the money that publication would provide. Even with all of the revision that his work underwent, Kerouac's unique style managed to shine through. In *On the Road*, Kerouac describes the fervor he feels when he chases his friends on the way to yet another part: "They danced down the streets like dingedodies, and I shambled after as I've been doing all my life after people who interest me, because the only people for me are the mad ones, the ones who are mad to live, mad to talk, mad to be saved, desirous of everything at the same time, the ones that never yawn or say a commonplace thing, but burn, burn, burn."²⁰

While contradictions in Kerouac's personality and life manifest themselves within the text of *On the Road*, the celebrity which Kerouac gained following its publication created an even more fragmented Kerouac. After his novel's publication, Kerouac the writer and Kerouac the cultural figurehead split further and further apart. Kerouac "became an overnight nationwide celebrity. Ironically, his success initiated his failure. Kerouac was not suited for mass media fame. An extroverted "madman" in his writing, he was actually shy in public and often became ill at the thought of appearing on a television show or even at a book signing party."²¹ Unable to cope with his newfound fame, Kerouac's "already heavy drinking increased."²²

Kerouac's Coexistent Hatred and Praise for "The Beat Generation"

18 "Kerouac Scroll Tour," OnTheRoad.org.

19 Theado, 3.

20 Kerouac, 30.

21 Theado, 22.

22 Ibid.

The Beat Generation had existed for years before *On the Road* was published. A feature article in the *New York Times Magazine*, written by John Holmes, entitled, "This is the Beat Generation," defined being "beat" as "the feeling of having been used, of being raw. It involves a sort of nakedness of mind, and ultimately of soul; a feeling of being reduced to a bedrock of consciousness."²³ Like so many other counter-culture movements, the beat generation was without a prophet or a bible. When Kerouac's opus was published, that void was filled in the mind of those who participated in the movement, but, ironically, not in Kerouac's. Gilbert Millstein, a famous *New York Times* book reviewer, stated that "*On the Road* is for the Beat Generation what *The Sun Also Rises* was for the Lost Generation."²⁴ Kerouac, however, openly despised such comparisons and tried to distance himself from the Beat movement: "Do you know what a beatnik is?... They write a line of poetry, type it up in a big expensive five dollar binding book, put it under their arm, put on sandals, grow a little goatee, walk down the street and say they're poets. It's just kind of a fad. It was invented by the press."²⁵ Kerouac's own description of beatniks "could have passed for the general impression the public was developing of Kerouac himself."²⁶

Kerouac's argument about the origination of the beat generation is explored by Matt Theado, who explains that, "readers would have to look carefully to find references to The Beat Generation in the text itself... if publishers...had not featured the Beat Generation in advertisements and book-cover notes, it is likely that this book would not be so closely aligned with the Beatnik craze that followed."²⁷ Indeed, the cultural perception of Kerouac as the Father of the Beats was hated by Kerouac, because "such alignment came at the cost of Kerouac's own reputation as a 'serious' writer."²⁸ The popular view of Kerouac as the beat prophet

23 John Holmes, "This is The Beat Generation," *The New York Times Magazine*, November 16, 1952, 33.

24 Gilbert Millstein in Matt Theado, *Understanding Jack Kerouac* (Columbia: University of South Carolina Press, 2000), 23.

25 *National Public Radio*, "On the Road at 50," (originally aired September 1, 2007)

26 Theado, 25.

27 *Ibid.*, 24.

28 *Ibid.*

was incredibly pervasive even until the early 1990's, when professors and faculty at various universities began to advocate his merit as a prominent figure in the canon of American literature.

Prior to this re-appreciation for his literature, "most people seemed to know him as more of a pop-culture icon that represent(ed) youth' movements, quests of the spirit, and the satiation of the sense with fast cars, jazz, drugs, and the pursuit of kicks."²⁹ *Time* magazine's obituary refers to Kerouac's status as "shaman of the beat Generation who sounded his 'barbaric yawp,'" yet the article never directly mentions that he was a writer.³⁰ Howard Cunnell reminds readers that "the novel is far more a spiritual quest than a how-to-be-a-hipster manual."³¹ Kerouac, disillusioned by what the movement had become, "witnessed firsthand the absurd tragedies of avant-garde cultural movements, which often stray from the fundamental ideas that spawn them."³² Certainly, a one-line poet in sandals and a goatee, calling himself "beat" would qualify under Kerouac's perception of straying from the fundamental ideas of The Beat Generation.

However, "Kerouac refused rigidity and reductiveness of categories."³³ So, to call Kerouac anti-beat would be anti-Kerouacian. Paradoxically, Kerouac tried to defend the beat generation in the midst of its departure from idealism to cultural fad. "Those who think that The Beat Generation means crime, delinquency, immorality are misinformed, because they attack it on the grounds that they simply don't understand history and the yearnings of human souls... Woe unto those who don't realize that America must, will, is changing now, for the better, I say."³⁴ Kerouac continued to appreciate the beat movement even though he "attempted to rid himself of the 'King of Beats title.'"³⁵ He did not want the responsibility of leading an entire generation that, in fact, he

29 Ibid.

30 Time cited in Theado, 3.

31 Howard Cunnell, "Fast This Time." *On the Road: The Original Scroll* (2007): 3.

32 Penny Vlagopoulos, "Rewriting America: Kerouac's Nation of "Underground Monsters." *On the Road: The Original Scroll* (2007): 55.

33 Ibid.

34 Jack Kerouac in Ellis Amburn, *Subterranean Kerouac: The Hidden Life of Jack Kerouac* (New York: St. Martin's Press, 1998), 205.

35 Vlagopoulos, 57.

barely understood. Still, compelled by the fundamental ideas of the cause, "Kerouac found himself having to rescue the idea of The Beat Generation."³⁶

Kerouac found great value in the movement he and others had created, even if the media were perverting it. Kerouac's description of his first interaction with the term "beat" is a useful tool for understanding why Kerouac continued to fight for The Beat Generation, even when it was losing itself. A broken down man named Huncke came up to Kerouac in Chicago "and said, 'Man, I'm beat.' I knew right away what he meant somehow. The hipsters kept talking about the same things I like, long outlines of personal experience and vision, full of hope, rumblings of a new soul. When Huncke appeared and said 'I'm beat' with radiant light shining out of his despairing eyes, it was a new language."³⁷ Kerouac wanted to preserve and express that "new language." He lamented that The Beat Generation became more about sandals and bad poetry than "radiant light shining out of despairing eyes."

Despite Kerouac's best efforts, The Beat Generation continued to move in a direction opposite of what Kerouac intended. Advertising and mass media had more of an impact on shaping and defining the Generation than Kerouac did. According to a sarcastic William Burroughs, "After 1957, *On the Road* sold a trillion levis and a million coffee machines, and sent countless kids on the road. This was due to the media, the arch-opportunists. They know a story when they see one, and the Beat movement was a story, a big one."³⁸ Hipsters paraphrased the book instead of reading it. Companies seeking to make a profit homogenized the message of anti-conformity and self-actualization into something that could be bought and sold – Levi's and cigarettes, fast cars and cheap alcohol. While companies became wealthy off of the newly popular Beat movement, Kerouac, in contrast saw a decline in personal wealth and wellness.

Kerouac's life began a precipitous decline after the publication of *On the Road*. "Some observers may conclude that Kerouac failed in life – he never maintained a solid home life that he yearned for; he had a

36 Ibid.

37 Jack Kerouac in Tamony, 278.

38 William Burroughs in Matt Theado, *Understanding Jack Kerouac* (Columbia: University of South Carolina Press, 2000), 1.

child he rarely saw; he was frequently broke and often depended on his mother; he died an early alcoholic's death."³⁹ Kerouac gave the last years of his life over to drugs and alcohol. He became increasingly depressed and disillusioned. "Kerouac felt a profound sense of loneliness; this stemmed partly from a spiritual understanding of human suffering that was so embedded in his Catholic upbringing, and partly from his artist's interiority."⁴⁰ Kerouac's beautiful prose about adventure, peace and harmony often clashed harshly with the way he lived his life. Nearer to his death, Kerouac wrote what he hoped would happen to men who had been too proud to stay at home with their family, men like him: "All over the world, in the jungles of Mexico, in the backstreets of Shanghai, in New York cocktail bars, husbands are getting drunk while women stay home with the babies of an ever-darkening future. If these men stop the machine and come home – and get on their knees – and ask for forgiveness – and the women bless them – peace will suddenly descend on the earth with a great silence like the inherent silence of the Apocalypse."⁴¹

Kerouac, of course, rarely took his own advice. He stated that "a lot of people say I don't know what I'm doing, but of course I do."⁴² He was a fragmented self, a walking contradiction. "Kerouac was a split person, drinking in increasing amounts, smoking marijuana and taking Benzedrine, and taking morphine with his friends."⁴³ Though he advocated home life and harmony in marriage, he was incapable of walking away from alcohol and asking for that forgiveness which he advised others to seek. Kerouac died at age forty-seven as a result of an internal hemorrhage caused by cirrhosis. A lifetime of alcohol abuse had effectively killed Kerouac.

Due to his fragmented existence, one can safely say that Kerouac would be equally pleased and repulsed by his manner of death. He had lived fast, but paid dearly for that life. The movement he devoted his life to was in shambles, yet "at the end of the road he was happy."⁴⁴

39 Theado, 26.

40 Vlagopoulos, 58.

41 Jack Kerouac in Penny Vlagopoulos, "Rewriting America: Kerouac's Nation of "Underground Monsters." *On the Road: The Original Scroll* (2007): 62.

42 Jack Kerouac in Kupetz, 82.

43 Theado, 22.

44 Ibid., 25.

A section of *On the Road* sums up Kerouac's journeys with Cassady, effectively closing the book: "Behind us lay the whole of America and everything Neal and I had previously known about life, and life on the road. We had finally found the magic land at the end of the road and we never dreamed the extent of the magic."⁴⁵ Although Kerouac intimates that he found happiness at the end of his road, one who studies his life can never be certain. The struggle between identifying biography and art in his writing is ever present. Jack Kerouac never sought to define his existence or life, and perhaps it is in the best interest of those who study him to live in ambiguity as well.

Biographical Notes

Brian Thredgold is a Senior majoring in English Literature at Utah Valley University. He plans on attending Law School after graduating-hopefully somewhere warm.

Silent Warriors: American Civilian Women Serving in Vietnam

Desiree Sedgwick

The United States' involvement in the Vietnam conflict began January 1, 1955, when the U.S. sent direct aid to the government of South Vietnam,¹ and ended April 30, 1975, the day Saigon surrendered to the North Vietnamese, and the last Americans were air-lifted out of Vietnam. The United States, between 1964 and 1975, experienced turbulent years marked by conflict and change. The women who served in the Vietnam War did so during a period of enormous cultural and societal upheaval. Activities of the civil rights movement, the anti-war movement, and the women's movement coincided with the years of armed conflict in Vietnam.¹

Civilian women who served in Vietnam did so bravely. They worked extremely long hours under uncomfortable and dangerous conditions. The Vietnam War did not have a defined front, and these women often found themselves in the midst of shelling and artillery attacks. In Vietnam, the women received appreciation from those they served, whether it was the American troops or the Vietnamese people. In many ways, these women served as unofficial diplomats for the United States. They represented the good that America stood for at a time when many Vietnamese saw very little good in the American government or military. When they returned home, they came back to a country that wanted to forget, ignore, deny, or simply move on from the war. Many women never spoke of their service in Vietnam; they instead chose silence. Many of these women experienced continuing difficulty in readjusting to life years after being back from Vietnam. Regardless of the nature of each woman's job and the extent of the immediate danger that they were exposed to, they all had to "stuff" their emotions to offset the unusual kinds of stress they experienced on a day to day basis. Whether that stress was caused by being under rocket attack, losing friends, or feeling the pressures of sexual harassment, many were forced to build an emotional wall around them in order to work at her job and keep mind and soul together.² Many women also had difficulties in establishing

1 Maxine Salvatore, "Women after War," (PhD diss., Simmons College, 1992), 10.

2 Keith Walker, *A Piece of My Heart*, (New York: Random House), 5.

personal long-term relationships; they had difficulties in discussing the war, and their feelings about what they had been through, even with their families. They returned home from Vietnam with their own ghosts, just as the men had. They, too, have had nightmares, flashbacks, depression and suicidal thoughts. They have been left on their own to cope, to resolve, each in her individual way.³ Not until the Vietnam Women's Memorial was dedicated in 1993, did many women who served in Vietnam choose to start talking about their experiences. Slowly, people are learning more of how these women served and Americans are now giving them the credit they deserve for their sacrifices.

Countless books and articles have been written on the Vietnam War. Of these writings, however, there has been very little written on the role that civilian women played during the war. Unknown to the general population, between 33,000 and 55,000 American women were in Vietnam during the war. Of this number, it is believed that about 11,000 served in the military.⁴ The remainder worked in civilian capacities, either as representatives of various organizations or as individuals.⁵ These numbers, however, are merely a guess. There is no documentation to actually back them up since gender was not taken into consideration when counting Americans serving in Vietnam. With 2.6 million men fighting a war, it is easy to understand how some Americans could be so oblivious to the presence of American women in Vietnam. Veteran journalist Ron Steinman stated in his book *Women in Vietnam*, that "*the Pentagon was either gender-blind during Vietnam or the omission was deliberate. We will never know. Either way, as I have said, the military did not define women as women....*"⁶

War and women are not often thought of together. Vietnam was not the first war in which women played an active role. Women have been involved in every American war since the Revolution. The assumption of women in war has been that they are nurses or women who are in the military. This has led most to forget the sacrifices that civilian women have made. Civilian women have been forgotten when it comes to war.

3 Walker, 6.

4 Kathryn Marshall, *In the Combat Zone* (Boston: Little Brown and Company, 1987), 4.

5 Maryann L. Weber, "Forgotten Sacrifices: American Civilian Women in the Vietnam War," (Master's thesis, San Jose State University, 1996), 1.

6 Ron Steinman, *Women in Vietnam: An Oral History*. (New York: T.V. Books 2000), 18, 19.

Since the inception of the United States, American women have played significant roles in all military conflicts. A group of civilian women in the American Revolution was nicknamed "Molly Pitchers" because the women served as water carriers for the artillery units. These women were not allowed to join the military in their time, but the original "Molly Pitcher," Mary Hays, was awarded a pension of \$40.00 annually by the Pennsylvania State Legislature for the rest of her life.⁷ This is just one example of what women did during the Revolutionary War. There are, however, less noted examples of women and the roles that they played during the Revolutionary War. Jobs, such as cooking meals, washing and mending clothes, and even those who served as nurses to wounded soldiers, might be thought of as less spectacular; they were nevertheless crucial to the war effort.

Women continued their patriotism into the Civil War. Women from both the North and South served as scouts, spies, saboteurs, and disguised themselves as men to participate in actual fighting.⁸ During the Civil War, nursing became a profession as approximately seven thousand women served as nurses for the Union and Confederate forces.⁹ This was all done in a civilian capacity because the U.S. Army did not establish an auxiliary nursing corps until 1901.¹⁰

During the first and second world wars, American civilian women served as nurses, secretaries, administrators, messengers, aides, telephone operators, pilots, interpreters, and other roles as well. They suffered from some of the same dangers of war as the soldiers: shelling, gassing, diseases, unsanitary living conditions, bombings and other horrors connected with war. They were witnesses to the heavy losses and brutality of both wars. Sometimes they were victims themselves. For instance, in World War I, three hundred nurses died from diseases, were wounded, or were prisoners of war.¹¹

World War II had by far the largest number of civilian women

7 Historic Valley Forge, "Molly Pitcher," U.S. History. Org, <http://www.ushistory.org/valleyforge>

8 June Willenz, *Women Veterans: America's Forgotten Heroines* (New York: Continuum Publishing Co, 1983), 12.

9 Willenz, 13.

10 The National Archives, "Women," <http://www.archives.gov/publications/ref-info-papers/109/women.pdf>.

11 Willenz, *Women's Veterans*, 15.

volunteers. In regards to civilian service, American women worked for a variety of organizations. One of those organizations, the American Red Cross (ARC), played a significant role during World War II. Women volunteers worked in hospitals, recreation centers, and mobile clubs. In recreation clubs, they provided food, drinks, games, music, and dancing. Volunteers also packed thousands of food and medical parcels for prisoners of war, and aided hundreds of thousands of military men and women. Twenty-nine American Red Cross women died in service during World War II. Other organizations that civilian women worked for were the Office of War Information, Office of Strategic Services, and the United Service Organization.¹²

The first American civilian women began arriving in Vietnam prior to the passage of the Gulf of Tonkin Resolution of 1964. Women went to Vietnam for a variety of reasons. Women were not drafted as many of the men were. The reasons for volunteering varied, but their determination for their work did not. Some went looking for adventure or an opportunity to live in another country. Others went for humanitarian reasons. Many had a desire to help those less fortunate; to help the Vietnamese learn to help themselves. Others volunteered as missionaries to spread Christianity.¹³

The roles that civilian women played during the Vietnam War were vital. They went as caregivers who generally served in one of two groups. There were those who were peace keepers in the form of missionaries, teachers, civilian nurses, and doctors, who typically belonged to Non-governmental organizations (NGOs). They had close relationships with the Vietnamese who trusted them. In many cases, these women were pacifists who distrusted the American military in Vietnam. They felt that the Vietnamese people were being treated unfairly and were being uprooted from a culture that had existed for thousands of years. In the Vietnamese culture, it is considered unwise to move people from their land because that is where their deceased ancestors' spirits remain. The U.S. and South Vietnamese military had a policy of relocating people in order to establish safe zones which disrupted many communities and families. This program was known as The Strategic Hamlet Program, and

12 Olga Gruhitz-Hoyt, *They Also Served: American Women in World War II* (New York: Carol Publishing Co., 1995), 220.

13 Maryann Weber, "Forgotten Sacrifices," 2

it failed miserably. Many civilian women who worked and lived closely with the Vietnamese appreciated their desire to remain on their ancestral land and understood their resistance to relocation.¹⁴ The two governments saw no way in which to avoid these actions. Therefore, the Vietnamese continued to be relocated despite repeated protests by the villagers. This led to negative feelings toward both their own Vietnamese government as well as the U.S. government.

The second group of women consisted of those who went to Vietnam to support the American servicemen. These women volunteered with groups such as the Department of Defense known as Army Special Services and NGOs like the American Red Cross and United Service Organization. They offered recreational programs, clubs, and shows to the U.S. troops in order to distract them from the stress and brutality of war. These women worked for the most part directly with the soldiers, playing games, teaching photography in craft shops, and suggesting books to read in the libraries.¹⁵ Although they knew some Vietnamese people, they generally had very little interaction with them.¹⁶

Within these two groups, the women traditionally performed "women's work." They were the caregivers and nurturers who took on the roles of mothers or sisters to the U.S. soldiers and Vietnamese. All worked extremely long hours, anywhere from twelve to sixteen hour days, six days a week. The average age of the civilian women was twenty-three; a few were Hispanic, African American, or Native American, but most were white, and regardless of racial or ethnic background, middle class. They were single and almost all had college degrees.¹⁷ In addition to the stress and strain involved in taking care of others, these women had the added burden of working in a war zone where their own personal safety was at risk.¹⁸

The two types of organizations that sent women to Vietnam were governmental (GOs) and nongovernmental (NGOs). The U.S. nongovernmental agencies that sent women to Vietnam varied greatly.

14 Keith Walker, *A Piece of My Heart*, 180.

15 Ann Kelsey, "War Zone Diversions."

16 Weber, "Forgotten Sacrifices," 2.

17 Ann Kelsey, "War Zone Diversions."

18 Weber, 3.

Many were from religious or voluntary organizations such as the International Voluntary Service (IVS), the American Friends Service Committee (AFSC), and Catholic Relief Services. These organizations sent their volunteers specifically to work with the Vietnamese people. For example, the IVS was a private organization that sent teachers, agricultural advisors, community social workers, and others to Vietnam to assist civilians.¹⁹ Typically, civilian women who worked for these NGOs as well as the governmental organization known as the U.S. Agency for International Development (USAID) lived and worked closest with the Vietnamese civilian population. They lived off the local economy. They bought and ate their food from the local Vietnamese markets and they lived in apartments or houses in town. Their work and location enabled them to have more contact with the Vietnamese population than any other Western women in Vietnam at that time.

Some other nongovernmental organizations such as the American Red Cross (ARC) through its Supplemental Recreational Activities Overseas program (SRAO), and the United Service Organization (USO) were specifically charged with developing morale and recreation services in Vietnam. Their mission was to provide diversified and comprehensive recreation programs to enhance and support the morale and welfare of the United States and Free World Military Forces.²⁰

Women who volunteered with NGOs or private organizations were trained much more efficiently than those in governmental organizations. The humanitarian NGOs, many of them religious in nature, but not all, have a long history of missionary/humanitarian work in other countries and cultures. As a result, they have developed in-depth training programs for the people who work with them.²¹ American government organizations such as USAID that had more NGO-like missions, had training that was similar to the NGO's.

The ARC and USO were considered non-military missions. While they were connected to the military, they were still considered non-combatants and so they received no relevant training or orientation. Ann Kelsey's (Special Services) personal belief is that the military refused

19 Walker, *A Piece of My Heart*, 171.

20 Ann L. Kelsey, "War Zone Diversions", (paper presented at the Massachusetts Historical Society Conference, August 20-21, 2004).

21 Ann Kelsey, email to author, 28 March 2010.

to recognize the meaning of a no-front, often guerrilla war situation, where a non-combatant designation is meaningless. As a result, the official assumption was that if women were a non-combatant (all women, military and civilian, were given that designation); there was no need to train or equip women adequately for life in a war zone because women would never find themselves under attack. This was one hundred percent true for the civilians. The military women were sometimes given better training and appropriate gear once they arrived in country, depending on their job and where they were assigned. "The civilians, though, just had to wing it." ²²

The NGO organization IVS provided its volunteers with extensive language classes that lasted four hours a day for the first three months in the country. Judy Danielson, who worked for the Vietnam Christian Service (VCS), said, "Speaking the language made all the difference." She was able to get around in Vietnam by herself because she knew the language, and from a psychological perspective because she spoke the language she was able to have closer relationships with the Vietnamese.²³ These women went to Vietnam specifically to serve the Vietnamese. They had daily interaction with the Vietnamese and at times, lived with Vietnamese families.

Women volunteered to serve in Vietnam for a variety of reasons. Becky Pietz joined the ARC in 1969 and was trained as a medical social worker. In 1971, she was assigned to Vietnam where she worked in a hospital in Qui Nhon and Danang. "When I told my father I was going to Vietnam, he said, 'Well, if I had a son I'd expect him to go.' My mother did not say anything – she absolutely refused to discuss it. My grandmother, I remember got drunk, and my younger sister got angry. My friends had very mixed feelings. Some of them were antiwar – and I lost a few of them."²⁴

Marjorie Nelson grew up in a Quaker family and from the fall of 1967 until Tet of 1968, Marjorie worked at the AFSC rehabilitation center in Quang Ngai, where she treated Vietnamese civilians for the injuries that they sustained in the war. "I went to Vietnam to find an adequate

22 Ann Kelsey, email to author, 28 March 2010.

23 Weber, "Forgotten Sacrifices," 18.

24 Marshall, *In the Combat Zone*, 104.

response, as a Christian and a Quaker, to people who were suffering and in need."²⁵

Laurie Jean Stark was the daughter of Dr. Meritt W. Stark who was the chief medical officer for Region III for civilians and refugees in Vietnam. He volunteered to go to Vietnam as a part of the Volunteer Physician to Vietnam program. Laurie was a protester against the conflict in Vietnam. She attended a seminar in Wisconsin that helped her improve her effectiveness as a protestor. After her graduation from the week long seminar, Laurie was assigned Oregon State where she was to disseminate anti-war information. She spent the summer in Oregon speaking at churches and civic clubs, on radio and television. In the fall she returned to the University of Colorado where she remained until her graduation in 1971. Following this, she was employed at the Community College of Denver.²⁶

In 1973, Dr. Stark wrote to Laurie inquiring whether she would be interested in a visit to Vietnam. "My thought was that the protestors in the States might have a change of heart were they to come to Vietnam and meet the people whose future hung in the balance."²⁷ Laurie was very receptive to this suggestion and in the fall of 1973, accompanied her father back to Vietnam. When Laurie arrived in Vietnam, she made a serious effort to learn the language. She used the language at every opportunity with the many friends she was making.

With the young men of the country of Vietnam in uniform, many of the young women needed employment to supplement the meager income their husbands received. Many women moved to Saigon where the possibility of employment was better and being away from their families, a place was needed for small children. Laurie and a Vietnamese friend opened a school, the Peter Pan Preschool. The school stayed open until April 4, 1975.

Sandra Collingwood was a volunteer with IVS and later with Catholic Relief Services from 1967 to 1969. She had training in the Vietnamese culture in the States first, and then in the Philippines, where she learned about the Asian farming culture. "We actually planted rice

25 Marshall, 147.

26 Meritt, W. Stark M.D., *Please Don't Kill the Orphans*, (unpublished manuscript available at Yale Library, New Haven, CT, 1989), 39.

27 Meritt W. Stark, 39.

in the mud paddies and experienced what it was like to work with the water buffalo, which was the Vietnamese farm equipment, like our tractors."²⁸ She also lived with a Vietnamese family where she learned to use chopsticks and to eat Vietnamese food, all the while learning other aspects of the culture.

Ann Hensley, another IVS worker, recalled that her training preceding her arrival in Vietnam was thorough. First, she spent ten days in Washington, D.C., listening to lectures about culture shock, health, nutrition, language barriers, and political concerns. Before arriving in Vietnam, her group stopped in Tokyo, Japan, and Hong Kong to get a feel of what Asia was like. Then, once she was in Vietnam, she spent six hours a day learning Vietnamese.²⁹

The women who received this extensive training understood and respected the Vietnamese customs and traditions. They developed close relationships with the Vietnamese people and this, in turn, put strains on their relationships with members of the United States military and government. The military was there to fight a war while the civilian volunteers were there to help the Vietnamese overcome the difficulties of living in the middle of a war. Ann Hensley said, "The U.S. military wanted us on their side, so there was always pressure to work on projects that they thought worthy. We resisted and were not well thought of because of it."³⁰ Their objectives were in conflict with one another. Sandra Collingwood said, "The tendency of a lot of the American military men, with the exposure and training they had regarding the Vietnamese, was to not trust any Vietnamese. Often I found that they did not, or could not, see them as human beings."³¹

Another problem that existed between the two sides was that many of the civilian women who worked for these various organizations were pacifists. Their pacifism caused tension between them and the military. Dot Weller was a volunteer with the AFSC from July 1967 to October 1971 in its rehabilitation center in Quang Ngai. The AFSC is a voluntary Quaker relief group, and its position was to help the Vietnamese civilians

28 Walker, 172.

29 Weber, 19.

30 Interview between Ann Hensley and Maryanne Weber, 5 December 1995.

31 Walker, 173.

cope with the injuries suffered at the hands of any participants in the war. The AFSC was absolutely neutral in regards to the political situation and vowed to treat anyone who came to its center, as long as they were civilians. The longer that Weller was there, however, the more her sympathies were with the National Liberation Front (NLF) and with the innocent civilians. Weller said, "We came to hate what the United States was doing in this country. During the four and a half years that I was there, from 80-95 percent of the war injured that came through our doors were injured by the U.S. or South Vietnamese troops."³² The women volunteers within these groups began to question the role of the U.S. military in Vietnam as well as whether its power and position was legitimate. They distanced themselves from the U.S. military and government as much as possible because it hurt their reputation with the Vietnamese.

There were, however, instances where some of these women volunteers had close relationships with members of the U.S. military and government. American soldiers often donated their free time in the civilian hospitals and went out of their way to help civilian Vietnamese and Americans. For example, in a civilian hospital in Nha Trang, called Chan-Y-Vien, American soldiers raised money to help buy a new car for the staff.³³

The civilian volunteers often lived in the villages or nearby, understood the language, respected the culture, developed lasting friendships, and helped the community in various ways. The contact they had with the peasants was a valuable tool.³⁴ The U.S. wanted to win the hearts and minds of the people of Vietnam. These women volunteers were at times able to accomplish that, however, they were unable to solve the armed conflict that was raging in Vietnam.

The other group of women who volunteered to go to Vietnam went to provide moral support and recreational services to the thousands of American servicemen. These women became the mothers, sisters, wives and girlfriends to these soldiers who longed for a reminder of home. Along with the ARC SRAO, and the USO, the Army Special Services, a governmental organization under the Department of Defense were such

32 Walker, 187.

33 Marva Hasselblad, *Lucky-Lucky* (New York: M. Evans and Company, Inc., 1966), 140.

34 Weber, 42.

that provided the support the soldiers needed.

Women who volunteered for these organizations often went to Vietnam out of a sense of patriotism and idealism to do their part to support the soldiers. Ann Kelsey grew up in California around military bases. Her father was a civilian worker at the Naval Ordnance Laboratory in Corona. As the war escalated, more and more of her male friends were either being drafted or enlisting in the military. For Kelsey, who had just recently graduated from college with a Master's degree in Library Science, a way to support her friends was to volunteer for the Special Services as a librarian. Kelsey was upset with the direct attacks of anti-war protesters on those who were serving in the military, and she believed she needed to support them. Kelsey was in favor of the war, and it was very upsetting to have her military friends attacked so viciously for their involvement.³⁵ When she was recruited by the Army Special Services, they were not recruiting specifically for Vietnam, because the Special Services recreation programs were at bases in the States, Europe, as well as other countries. But when she found out that there was a program for soldiers in Vietnam, "I volunteered specifically for that. I felt that I had to do something to show my support for the guys who were over there, and this was a way to do it."³⁶

While most women who worked for nongovernmental organizations and religious groups were given extensive training for their new assignments in Vietnam, women who volunteered with the ARC, and the USO, were given very little training, if any at all. The women who volunteered with the governmental organization, Army Special Services were not given training either. Many did not even know what they were going to do once they arrived in Vietnam.³⁷ Ann Kelsey was sent her uniform in the mail and simply "shipped off" to Vietnam. Once she arrived, she felt "totally unprepared."³⁸

Jeannie Hasenbeck (ARC 1968-1969) said her training before she arrived in Vietnam, consisted of nothing more than getting her shots and being fitted for her uniform. "I had not spent one day in the Red Cross

35 Ann Kelsey, interview by author, 10 October 2009.

36 "Ann Kelsey: Vietnam Vet," *Pacific University Oregon*, internet, available through <http://mcel.pacificu.edu/as/students/wviet/interv.html>.

37 Weber, 53.

38 Ann Kelsey, interview by author, 10 October 2009.

before I went over. I had not spent one day around the military which was what I was assigned to. I had not spent one day in a hospital. I had never spent a day in a war zone, and I had never spent a day in a foreign country." On her first day, when she was being shown around the hospital by the field director, she became overwhelmed, "and vomited all over the place because I could not believe what I was seeing." Hasenbeck recalled, "I had never seen such destruction of the human body before."³⁹ Because they had not been to any training sessions or orientation meetings, the volunteers did not know what to anticipate and were shocked at their situation.

Some women did receive training before arriving in Vietnam. Jeanne Christie who worked with the ARC (1967-1968), remembered that her training in Washington, D.C., consisted of how to tell the different branches of the service apart and how to tell who was an officer and who was an enlisted person. "We were also told how to wear our uniforms and when we could wear civilian clothes." The ARC also taught her how to "answer an off-color remark and how to take a drink when we were in uniform."⁴⁰

Marianne Gable Reynolds volunteered with the Army Special Services from 1967 to 1968, and ran a huge service club called the Ponderosa in Dong Tam. One day while working in the club, General Bradley came in. Reynolds was working alone and was surprised by the visit but greeted the general warmly. "Sergeant Bradley, I'm so happy to have you at the Ponderosa Service Club."⁴¹

General Bradley was not in military uniform, but a civilian white shirt. Reynolds reported, "I saw him smile briefly but what I really did notice was his *aide-de-camp* and our base commander recoil in horror. To my surprise, that evening I was invited to the command bunker to learn army lessons from the base commander's executive officer: 'Now, Miss Gable, when you see one gold oak leaf it's a major; a silver oak leaf is a lieutenant colonel, and...' The officer went through the whole litany of rank."⁴²

39 Jeanne Hasenbeck interview with Maryann Webster, 1 November 1995.

40 Marshall, *In the Combat Zone*, 171.

41 Olga Gruzhit-Hoyt, *A Time Remembered* (Novato, CA: Presidio Press, 1999), 153.

42 Olga Gruzhit-Hoyt, *A Time Remembered*, (Novato, CA: Presidio Press, 1999), 153.

At the time Reynolds exhibited chagrin, but she became indignant later when she thought, If they wanted me perfect as a civilian, they should have trained me to all that rank.⁴³ Another ARC worker, Penni Evans, was taught military etiquette and was reminded to "be feminine," and "don't swear." Although it was not stated, it was implied that they should not date enlisted men, "We were to be nonsexual symbols of purity and goodness."⁴⁴ USO girls were given training before they went to Vietnam. They learned how to run a club, plan menus and write monthly reports. This training was useful so that they might perform their jobs adequately, it did not, however, prepare them for going to work in a war zone.

While some women did receive training for their assignments in Vietnam, none were given specific safety procedures or training for living in a war zone. Ann Kelsey remembered, "The Army didn't give me any training at all. I went to the University of California at Los Angeles and got a Master's degree in library science. That qualified me to go to work for Special Services as a librarian with a civil service rating of GS-9. I was trained by the university to do my job as a librarian. I wasn't trained at all to go to a war zone, either before I went or while I was there."⁴⁵

In Vietnam, there were no front lines. Women, nurses included, were supposed to be safe in the rear. Because women were considered "non-combatants," they were not issued steel helmets or flak jackets; instead they had to scrounge for them so they would have some protection during rocket and mortar attacks. When asked about safety procedures and equipment, Mo Nerli with the USO (1969-1970) exclaimed, "Helmets, are you kidding, helmets are you kidding! Never, boots, never, guns, never, vests, never, helmets, never. Nothing."⁴⁶ In most cases, these women received training on how to behave like a "lady" rather than what to do when being mortared or how to respond to a war zone. Women learned what to do by watching others who had been in country longer. The naiveté or lack of concern on the part of these organizations is indeed startling. The men were expected to take care of the volunteers in case a dangerous situation arose and most women felt reasonably safe with this

43 Olga Gruhzit-Hoyt, 153.

44 Walker, 274

45 "Ann Kelsey: Vietnam Vet," *Pacific University Oregon*, internet, available through <http://mcel.pacificu.edu/as/students/wviet/interv.html>.

46 Mo Nerli interview with Maryann Webster, 3 August 1995, Burlingame, Ca., tape recording.

option.⁴⁷

Ann Kelsey was nearly shot by mistake. A bullet crashed through the trailer that she was living in, missing the side of her head by inches. She was angrier that "Some fool had discharged his weapon in the wrong direction rather than almost being killed." She went out and dug up the bullet and took it to the commanding general and strongly suggested that they be more careful when practicing.⁴⁸

Safety procedures and training for life in a war zone were essential for all women who were sent to Vietnam. The nature of the war as well as the nature of their jobs demanded this training, training that they did not receive. Civilian women were often put in the most harmful circumstances. Danger was everywhere. One ARC worker, Cherie Rankin (1970-1971), who worked in Da Nang, remembered her base being hit all the time by the NLF. They called Da Nang "Rocket City," because it was always being rocketed. "The first night I was there, seventeen rockets hit our base I heard the alarm, jumped out of bed and ran to the bunker."⁴⁹ The bunkers were not always the safest place. They were infested with rats, snakes, and giant cockroaches; they were like swamps. Because of this, many women chose to stay in their rooms rather than run across the compound in the dark and sit with bugs and snakes. They would, instead, "pull the mattress over us and get under the bed. You just got used to sleeping that way, right through rocket attacks."⁵⁰ Ann Kelsey went to the bunker once while she was in Cam Ranh Bay. "It was full of water and nasty creatures so after that I took my chances in the trailer. I went under my bed which was an Army issue and fairly high off the floor and pulled the mattress halfway off to cover the opening."⁵¹

Other threats to these women existed besides being bombed while on base. For many of the women, part of their job was going out into the field and visiting the men in remote firebases. They traveled in jeeps, choppers, and airplanes. Choppers and planes were often shot at by the enemy and jeeps were exposed to land mines and sniper fire. Penni Evans

47 Weber, 56.

48 "A Special Services Librarian Speaks to HS Students," Internet, available through, <http://www.illyria.com/women/vnwhighschool2.html>.

49 Marshall, *In the Combat Zone*, 67.

50 Marshall, 67.

51 Ann Kelsey, email message to author, February 24, 2010.

remembered: "The chopper right ahead of us took enemy ground fire, and we took evasive action."⁵² Judy Jenkins, who served with the Army Special Services from 1967 to 1970, was in a helicopter when it was fired upon. She was unable to hear the firing because of the helicopter blades, but she was able to see the tracers. "Well, then the helicopter goes sideways and we start skimming the trees to get out of range. I remember I was terrified." She was also fired upon as she was riding in a jeep. She flattened herself against the floor and the driver fired back and took off. They made it back to their base unhurt, but the jeep behind her had its tires shot out and was forced to stay behind and "shoot it out."⁵³

Civilian women who worked in Vietnam had to worry about the threat of being overrun by the enemy, being hit in a jeep or helicopter that they were traveling in, and other incidents that can occur in a war zone. Civilian women who worked closely with the American troops also had to worry about another perceived threat—one that was not so obvious, but was just as dangerous nonetheless—American troops. In some cases, the women's closest companions, their dearest friends, the men they had traveled half way across the world to help, were sometimes the ones who cost them their lives.⁵⁴ Women experienced varying degrees of harassment in Vietnam. Sometimes the harassment was job related when military personnel, such as unit Special Services officers, attempted to undermine or subvert a civilian woman's role as a manager of a program or facility. More often the harassment was sexual in nature.

Soldiers who harmed American women in Vietnam were more the exception than the norm. For the most part, the soldiers were extremely respectful of the women who were serving in Vietnam and they greatly admired them for their decision to serve. "I was never once treated disrespectfully. We were made to feel so special over there. Those men thought the world of us and showed it in a very positive way,"⁵⁵ recalled Jeanne Hasenbeck. If a unit had gone through an extremely brutal encounter with the enemy, or if they had been extremely brave, their commanders could request that the women go to the field. The chance

52 Walker, *A Piece of My Heart*, 277.

53 Marshall, *In the Combat Zone*, 131.

54 Weber, *Forgotten Sacrifices*, 62.

55 Jeanne Hasenbeck interview with Maryann Webster, 1 November 1995.

for American soldiers to see a “round eye,” as they were called, was very special. The commanders knew how much it meant to the men to see an American woman. The men in the field, it seemed were often more afraid of the women than the women were of them. Most of the men were so amazed to see them that they just stared and followed the women around. Therefore, the women were treated very well for the most part. To some men they were thought of as sisters, mothers, and friends, but, unfortunately, to some they were merely women “for hire.”⁵⁶

According to Ann Kelsey, “Some of the men believed that the only women who would go into a war zone were those that were there to make money by selling themselves.”⁵⁷ This was a common misconception in Vietnam that American women who worked for civilian organizations as well as military women were there merely as prostitutes. “Nurses do it for free, but the Red Cross girls charge,” was a popular saying in Vietnam that Penni Evans often heard and some men actually believed.⁵⁸ “You spent a lot of energy proving you weren’t over there making money. It was horrendous.”⁵⁹

Cherie Rankin barely escaped being raped by two servicemen when she accepted a ride from them. Rankin, who was with the ARC SRAO Program in Da Nang, Cam Ranh, and Phan Rang from 1970 to 1971, was assaulted by two American servicemen who offered to give her a ride back to the base when she was coming back from visiting a local orphanage in Da Nang. At first she said no. Her instincts told her not to go with them because she felt something was wrong with the situation. They hung around while she was at the orphanage and waited for her to head back. Her conflict was that, “You’re supposed to be nice to the guys. You never know if you’re the first American woman that they’ve seen, so you always tried to be friendly. So when they stopped again and asked if I wanted a ride, my instincts told me not to get in the truck, but my professional self said, ‘Now what are you supposed to be doing here in Nam?’” Against her better judgment, she accepted the ride. As soon as she got in the truck, one of the guys started to molest her. “His hands

56 Weber, 63.

57 Ann Kelsey interview with author, 5 October 2009.

58 Walker, *A Piece of My Heart*, 281.

59 Marshall, *In the Combat Zone*, 73.

were everywhere – up my dress, in my panties. I was biting him and yelling at him.” The men continued to molest her and said, “Well you do this all the time. You give it to the officers for free – what’s the matter, you gonna charge us?” Rankin was trying to be very cool and rational, but finally she said, “If you don’t take your goddamned hands off me I’m going to scream my lungs out and I’m going to file a report, and besides, I could be your sister! I have a brother here!” Rankin had finally gotten through to them and they let her go.⁶⁰

Virginia Kirsch was not so lucky. Ginny, as her friends called her, was with the ARC SRAO Program in Vietnam and was stationed in Cu Chi for only two weeks when she was killed. An American serviceman broke into her building and stabbed her to death on 16 August 1970.

Sandra Collingwood and several other IVS women were working in a community that had been recently overwhelmed by the American military. Whenever Collingwood saw an American convoy coming down the road, she would go into a store, or somewhere “where I would not be seen, because if they saw me they would blow their air horns; they’d go through their catcalls, making noises or whatever. To me that was harassment. I was there doing work that I wanted to be doing with the Vietnamese and this was an interference.”⁶¹ Collingwood felt a lack of respect for herself as a person; she felt that they were judging her as a round-eye woman, a sexual object rather than just a person. She distanced herself as much as she could from the military because of this.

Sexual and job related harassment are not peculiar to war zones. What made these negative experiences more intense in Vietnam was the fact that they were perpetrated on women who had voluntarily put themselves in harm’s way by going to a place that was by definition dangerous, and where they were clearly a minority.⁶² For women who volunteered to serve in Vietnam, this was an extra layer of burden that they had to deal with simply because they were women and subject to this type of behavior by men. Women in Vietnam who experienced sexual harassment dealt with it as best they could. Some chose to report it while others did not. Many women lived with the stress caused by the sexual

60 Marshall, 68-69.

61 Walker, *A Piece of my Heart*, 174

62 Ann Kelsey, “War Zone Diversions,” 10.

harassment, pushed it down deep inside them and continued to do their jobs to the best of their ability. For the women who worked in morale and recreation, their job was to boost spirits, to bring a touch of home to the combat zone, to be perky and happy and smiling. For these women, exhibiting stress, depression, sadness, or anger was not allowed. These women learned to internalize their fear and anger, to absorb it. Because of this, many women chose not to report sexual harassment incidences that took place. Prior to 1973, the term sexual harassment was not used. While many women felt discriminated against because of their sex, there were not really any guidelines on how to report it or resolve it.⁶³

"Within the organizations, there wasn't really anyone to intercede," stated Ann Kelsey. Typically, headquarters was an hour helicopter ride away from where a woman was stationed. There was nothing that could aid a woman as far as sexual harassment or assault on a day to day basis. The women themselves had to learn how to manage it."⁶⁴

Ann Kelsey never encountered sexual harassment physically, but there was plenty of emotional sexual harassment. The Special Services office in Long Binh bought its own vehicles that were then assigned to librarians and the people within the entertainment branch because they had to travel regularly. Kelsey was in charge of several libraries at once and needed to travel between them frequently; because of this she received her own vehicle while serving in Vietnam. The Army captain in charge of Special Services at Cam Ranh and his NCO were both a little incensed that a "little female civilian" had wheels while they had to walk. These two men spent a great deal of time trying to make Kelsey's life miserable enough for her to surrender her vehicle to them. The two men made nasty remarks toward her they were not willing to supply facilities-related items she needed for her library, such as paint, part-time military personnel to cover evenings, as well as other things that made her life there difficult. Another Special Services woman who worked in Entertainment also had similar problems with the two men. Kelsey says, "The legal concept of a hostile work environment didn't exist then, and my civilian supervisors in Long Binh were too far away to provide assistance. I just had to deal

63 Mary Rowe, "Saturn's Rings: a study of the minutiae of sexism which maintain discrimination and inhibit affirmative action results in corporations and non-profit institutions," In Graduate and Professional Education of Women, American Association of University Women, 1974.

64 Ann Kelsey interview by author, 5 October 2009,

with it alone.”⁶⁵ Kelsey ignored their remarks and attempts to sabotage her and found other ways to get what she needed, and of course, she never surrendered her vehicle. She also did not allow them to jeopardize the library services that she was trying to provide, which they considered totally unnecessary. Kelsey reported directly to the head of the library program in Long Binh and not to the Army captain in charge. Because of this, they could not actually order her to do anything. As a result, they just “flamed back and forth for months.”⁶⁶

The other problem had to do with officers, especially the senior officers, most of whom were married, hitting on Kelsey. Because Kelsey was a civilian, she was not subject to the Army’s non-fraternization policy, so her male friends tended to be the ones who were her age, who were almost all enlisted men. This did not set well with the officers and they were not shy about letting her know it. This resulted in much stress and tension for Kelsey. Because her job was different from the recreation workers, both Special Services and Red Cross, she did not believe that she was required to socialize, so she avoided the Officer’s Club and most parties. She believes this is part of the reason why she did not encounter any physical sexual harassment. “Since Ginny Kirsch was stabbed to death in her quarters, and I know at least two other women personally who, like Ginny, were attacked in their quarters in the middle of the night, I’m not sure that limiting the socializing was really relevant. I was just lucky.”⁶⁷ The women learned to live with the stress and danger that they experienced on a daily basis in Vietnam. However, the stress and danger that they experienced in Vietnam carried on into their lives once they returned home to the U.S. in the form of what is now known as Post-Traumatic Stress Disorder (PTSD).⁶⁸

65 Ann Kelsey, email to author, February 26, 2010.

66 Ann Kelsey, email to author, February 26, 2010.

67 Ann Kelsey, email to author, February 26, 2010.

68 In 2004, Congress directed the Department of Defense (DOD) to establish a comprehensive policy to prevent and respond to sexual assaults involving service members. Though not required to do so, the Coast Guard has established a similar policy. In response to congressional requests and Senate Report No. 110-77, GAO evaluated the extent to which DOD and the Coast Guard (1) have developed and implemented policies and programs to prevent, respond to, and resolve sexual assault incidents involving service members; (2) have visibility over reports of sexual assault involving service members; and (3) exercise oversight over reports of sexual assault involving service members. To conduct this review, GAO reviewed legislative requirements and DOD and Coast Guard guidance; analyzed sexual assault incident data; and obtained through surveys and interviews the perspective on sexual assault matters of more than 3,900 ser-

Despite the widespread attention given to male Vietnam veterans, the two largest groups of women to serve in Vietnam, an estimated 11,000 military women and an unknown number of civilian women, have been the subject of only limited research. Experiences of women in Vietnam included loss, exposure to danger, sexual harassment, and inadequate preparation for war. The youthful civilian workers and military women were exposed to catastrophic danger. Nurses were more likely to come in contact with large numbers of injured and dying, to feel responsible for another's death, and to report shortages of essential personnel and supplies. Many military women, both nurses and not, suffered sexual harassment and sexual attacks. Then, as now, they may have been less likely to report it. Civilian workers, especially government civilian workers, reported more frequent sexual harassment. The reasoning behind this was that these women worked with the military and experienced more frequent sexual harassment from the soldiers than those who worked with the Vietnamese.⁶⁹⁷⁰ Both groups suffered from PTSD symptoms.

According to the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, the essential feature of Posttraumatic Stress Disorder is the development of characteristic symptoms following exposure to an extreme traumatic stressor involving direct personal experience of an event that involves actual or threatened death or serious injury, or other threat to one's physical integrity; or witnessing an event that involves death, injury, or a threat to the physical integrity of another person; or learning about unexpected or violent death, serious harm, or threat of death or injury experienced by a family member or other close associate.⁷¹ The person's response to the event must involve intense fear, helplessness, or horror. The characteristic symptoms

vice members. "Military Personnel: DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs Face Implementation and Oversight Challenges," *U.S. Government Accountability Office*, 29 August 2008, Internet, available through <http://www.gao.gov/products/GAO-08-924>

69 Marie, Tessier, "Sexual Assault Pervasive in Military Experts Say," *We News Sunday March 30, 2003*, Internet available through <http://www.womennews.org/story/rape/030330/sexual-assault-pervasive-military-experts-say>.

70 While the above article is from 2003, protocol in the military has not changed drastically in the last 40 years. Women who serve in the military are more afraid of the consequences they may incur from commanding officers or that it will reflect on their record. Because the military has its own justice system, investigation and prosecution are made within the accusers chain of command, this creates a conflict of interest.

71 "Posttraumatic Stress Disorder," In *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision*, (Washington D.C. American Psychiatric Association, 2000), 463.

resulting from the exposure to the extreme trauma include persistent re-experiencing of the traumatic event, persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness, and persistent symptoms of increased arousal.

Traumatic events that are experienced directly include, but are not limited to, military combat, violent personal assault (sexual assault, physical attack, robbery, and mugging), being kidnapped, etc. The traumatic event can be reexperienced in various ways. Commonly the person has recurrent and intrusive recollections of the event or recurrent distressing dreams during which the event is replayed. Individuals with Posttraumatic Stress Disorder may describe painful guilt feelings about surviving when others did not survive or about the things they had to do to survive. Phobic avoidance of situations or activities that resemble or symbolize the original trauma may interfere with interpersonal relationships and lead to marital conflict, divorce, or loss of job.⁷²

Many women encountered traumatic stressors at least once during their tour of duty. It is likely that they experienced such stressors repeatedly, that is, chronically, while in Vietnam. Thus, like the men who came home with them, women who served were at risk for, and indeed, reported symptoms of PTSD.⁷³

Troops returning from Vietnam came home in ones and twos, never together in large numbers the way they did in World War II. When they started coming home after 1968 and the Tet Offensive, when the war was at its lowest point in popularity, they felt like lepers. Unlike World War II veterans who marched home to ticker-tape parades and had numerous memorials erected in their honor, the Vietnam veterans returned in the words of historian George Herring, to a nation that "experienced a self-conscious collective amnesia."⁷⁴ For many years Americans often ignored the sacrifices of millions who served in Vietnam, denying psychological and physical assistance to those desperately in need of it. These women, too, came home alone and often, by their own choice, unrecognized for the service they willingly gave for their country

72 "Posttraumatic Stress Disorder," 463-464.

73 Maxine Salvatore, *Women After War*, (PhD diss., Simmons College School of Social Work, 1992) 32.

74 George C Herring, *America's Longest War: The United States and Vietnam, 1950-1975*, 4th edition (New York: McGraw-Hill, 2002), 347.

or to the people of Vietnam. The continuing debate about the war raised conflicting emotions for many Americans. For the women mentioned in this paper, hardest of all, was that there was not a way for them to come to grips with, or even acknowledge, what they had been through because it seemed that no one wanted to hear. Disregard towards these women whether intentional or not, came from friends and family and the American public as a whole. Isolated from each other, these women were reluctant to identify themselves as having served in Vietnam because the public image was that they were lesbians, whores, or losers looking for husbands. Many women quickly realized that even friends and family refused or were unable to understand where they had been and what they had been doing, so they learned to shut Vietnam out of their lives. These women tried to go on with their lives, and waited for the war to go away.⁷⁵ For many of these women, it took time to work through the experiences of Vietnam and to release the tensions and emotions held in for long periods.

Dot Weller (AFSC, 1967-71) tried to talk about the things she had seen, the lessons she had learned and the problems she was having when she first came home. "But unless one has been through that experience with you, they simply cannot understand. And this is not their fault. They have no basis for comparison."⁷⁶ At the time that the interview between Keith Walker and Dot Weller took place, Weller had been home from Vietnam for twelve years. She told Keith Walker in a letter (she could not go through with a personal interview), "You would think I could have sorted things out by this time. I certainly expect that of myself, but I guess the abscess still drains in me."⁷⁷ Weller went on to say that the atrocities that she was witness to were so horrible that no one at home would ever believe her if she tried to relate stories. "What stuck in my memory is that this type of inhumane behavior is what war does to the minds of men. All men! Not just the so-called VC but the Koreans, the American, the South Vietnamese, the CIA – all men."⁷⁸ Weller struggled with what was happening to her American military friends. She watched them turn to

75 Carol Lynn Mithers, "Women Warriors in Vietnam," in *The Vietnam War and American Culture*, ed. John Carlos Rowe and Rick Berg (New York: Columbia University Press, 1991), 78.

76 Keith Walker, *A Piece of My Heart*, 188.

77 Walker, 186.

78 Walker, 187.

drugs or "mindless savagery to try to justify what they were being asked to do day after day." She watched them struggling to be courageous in the "face of a war that they didn't understand and in the face of widespread criticism from many nations of the world. Everybody suffered in that war, *everybody*."⁷⁹ Weller realized that if she wanted to have friends or comfortable relationships with her family, she had to submerge all of her feelings; to try to forget it all. Weller found that if any of her friends that she had made after Vietnam were exposed to her feelings, it compromised the relationship to some degree. "So I have been working very hard at keeping a lid on 'Pandora's Box.'"⁸⁰

Ann Kelsey returned from Vietnam in 1970. She had gone to Vietnam thinking that the reason the U.S. was involved there was to stop the spread of communism and help the Vietnamese have a democratic government. She had only been there a short time when she began to realize there was something fundamentally wrong with what was happening there. "Corruption, cynicism, riots, drug use, none of this fit with fighting for a noble cause. My disillusionment was complete the day that we invaded Cambodia in May 1970. I was called to shut down a library, because the brigade was being trucked to Cambodia. In the midst of all this, President Nixon began broadcasting on the radio saying that there was no invasion of Cambodia."⁸¹ Kelsey now views the war as a terrible mistake, "not just of Johnson and Nixon, but of presidents and their advisors going back to Truman. I think that our national hubris, the attitude that we knew what was best and we could save the world, resulted in a tragedy for both Americans and Vietnamese."⁸²

Upon coming home, Kelsey knew that in terms of her job there was not anything that she could not handle. She did not, however, feel that she fit in with her high school and college friends. Many of them had gotten married and were having babies and, "here I was coming back from a war that I didn't believe in and we were in a different place in our lives." No one wanted to talk to her about the war, "it just wasn't something that was done." Three weeks after she returned home she left

79 Walker, 187.

80 Walker, 189.

81 "Ann Kelsey: Vietnam Vet," *Pacific University Oregon*, internet, available through <http://mcel.pacificu.edu/as/students/wviet/interv.html>.

82 "Ann Kelsey: Vietnam Vet," *Pacific University Oregon*, internet, available through

for New York. In Vietnam, she had met a soldier in Vietnam, and they were going to be married. When she moved to New York, no one there knew her and she never told anyone that she served in Vietnam. In the five years that Kelsey was married, she and her husband said very little about Vietnam to one another.⁸³ For Kelsey, "Vietnam totally changed my life. It made me independent and absolutely confident that I could do anything that needed to be done. It made me a loner. It made me distrust my government and all politicians. It made me not have kids. It made me stand up for myself and rely on myself and no one else."⁸⁴ For Kelsey, she feels that she suffers from PTSD only minimally. She cannot be around fireworks because it reminds her of incoming fire. She does not get emotional at things that others do, like death. However, the sound of a helicopter brings tears to her eyes. When she hears the sound of helicopter blades, she has a mini flashback; for just a moment she is back in Vietnam and "that is still emotional even after 40 years."⁸⁵ She believes that she does have some stress effects, but "I am not dysfunctional because of them."⁸⁶ Kelsey is very active in the Women's Overseas Service League, she also subscribes to several Vietnam War or related discussion lists on the internet. She was active with the Vietnam Women's Memorial Project, writing the section on Special Services for the Women's Memorial dedication program. She also works with an *ad hoc* group that honors civilian women who died in Vietnam, *Circle of Sisters ... Circle of Friends*. *Being involved with these groups enabled Kelsey to talk through many of her issues. "The camaraderie made a big difference to my emotional well being."*⁸⁷ Kelsey experienced her worst problems with PTSD from the late 1970's to the mid-1980s. At the time, she did not realize that she was experiencing symptoms of PTSD. When she began connecting with other women who had been in Vietnam, in the early 1990's, she realized that she had in fact been suffering from PTSD.

Ann Campbell (Special Services club director 1969-1970) experienced nightmares night after night after she returned home. She

83 Ann Kelsey interview by author, 5 October 2009.

84 Ann Kelsey interview by author, 5 October 2009.

85 Ann Kelsey, email message to author, March 14, 2010.

86 Ann Kelsey interview by author, 5 October 2009.

87 Ann Kelsey, email message to author, March 14, 2010.

would wake up in a cold sweat. Her pajamas were wet through; even the sheets were damp. She would sit up in bed, breathing hard, her heart pounding. Her nightmares were flashbacks from her Vietnam days, and they continued for years, but became less frequent and less dramatic in nature. Campbell did not speak of her time in Vietnam because she learned that no one wanted to listen. No one chided her for her service. In the beginning of 1972, she started working for the Essex County, New Jersey, Department of Parks, Recreation, and Cultural Affairs, and she stayed there for twenty-three years, retiring 1 April 1995. She never married. It was not until the first reunion of the Special Services Women of Vietnam in Washington, D.C., in November 1993, that Campbell had any contact with the women who had served during the war.⁸⁸

Debby Maynard remembered coming home from her first tour with Special Services "feeling like I didn't belong. It was a real lonely, funny feeling because all of my girlfriends were talking about getting married and stupid stuff that to me just didn't mean anything."⁸⁹ Though a few women came home to supportive environments, most women, like the men, found themselves isolated by the increasingly polarized atmosphere of the 1960s. No one wanted to hear about the war, neither friends nor family.⁹⁰ "That was my biggest need when I came home," stated Cathleen Cordova. "I wanted to talk about it. But nobody would. My own family wouldn't. I don't know if it was too painful for them to hear these things or they just felt it was better for me not to talk about it."⁹¹

When Cherie Rankin (SRAO 1970 to 1971) came home, people asked her what it was like over in Vietnam. "How do you answer? How do you tell someone it was the most wonderful and the most terrible experience of your life? I mean, you can't possibly make people understand what it was like, so you don't talk about it. After I got back a lot of people, even my good friends, never knew I'd been in Nam. I felt I just couldn't talk about it except with people who had been there."⁹²

88 Olga Gruhzit-Hoyt, *A Time Remembered* 149-150.

89 Debby Maynard interview with Lenna Hodnett Allredd, 16 June 1993.

90 Mark Baker, *Nam: The Vietnam War In the Words of the Men and Women Who Fought There*, (New York: William Morrow & Co., 1981), 242.

91 Cathleen Cordova interview with Lenna Hodnett Allredd, 21 Jun3 1993.

92 Marshall, *In the Combat Zone*, 77.

Because women who had been to Vietnam did not have anyone to talk to about their experiences or chose not to talk to anyone about them, they often pushed their memories back into their sub-conscious and forgot them. They often forgot the names of people, and events, some forgot everything. Theda Parrish who worked for the Joint United States Public Affairs Office said, "It was just like all the things I'd brought back from Vietnam, I'd put all of them into a box and wrote Vietnam on it and stuck it in storage. I did the same thing with everything in my head. I just took it all and stuck it in a box and left it there."⁹³

When Sandra Collingwood returned from Vietnam, she "could not talk about Vietnam, there was no way. I went through an irrational hatred of khaki green, an irrational hatred of anything military."⁹⁴ Collingwood had decided to go to graduate school once she returned from Vietnam. She was immediately exposed to a fellow student who had just come back from Vietnam, and had been in the military. Collingwood and this student ended up becoming friends. She was one of the few people that he could talk to about what had happened. While Collingwood was at graduate school, she began to be asked to talk to different groups about Vietnam. She agreed to do so only because she "felt it was so terribly important to develop an awareness in the American people about the total devastation of war and how many lives were being ruined."⁹⁵ Collingwood continued speaking at colleges after she finished graduate school. She finally came to the realization that "I was constantly reliving what had happened while I was in Vietnam each time I gave a lecture. I was not adjusting, giving myself an opportunity to be here and try to get on with my life. I decided I needed to stop opening all of those wounds. I needed to just back off..."⁹⁶ It was not until 1982 that she finally started letting herself begin to deal with what had happened when she was in Vietnam. Collingwood has worked through some of the emotional scars, but knows that they will always be there for her. She realized that she needed to accept what had happened in Vietnam so that she could move on with her life. For many years, Collingwood, similar to others who served in Vietnam denied that

93 Theda Parrish, interview with Lenna Hodnett Allredd, 4 November 1993.

94 Walker, *A Piece of My Heart*, 181.

95 Walker, 182.

96 Walker, 183.

she had issues with her experiences in Vietnam and that they directly affected her relationships with other people. Collingwood realized that she needed to talk to others that had been through similar experiences because they could relate.

Becky Pietz served as an ARC medical social worker in Qui Nhom in 1971. Five months after she arrived in Vietnam, she could no longer cope with all the burned bodies that she was seeing and resigned her position. When she got home, she wanted to talk to her mother, but her mother did not want to hear it. After that, Pietz totally withdrew; she was embarrassed to say she had even been there. Pietz married a Vietnam veteran and did not even talk to him about the war. "I think he and I got married because we were in the same place emotionally. We were both just really not able to cope."⁹⁷ Pietz's marriage broke up in 1975. Her husband turned out to be a very violent person and she left him because of that. After her marriage broke up, she had many problems with Vietnam. In April 1975, Pietz watched Saigon fall to the NVN on television. This event put Pietz in the hospital for what she called a "quote- unquote – rest. I remember lying in the hospital listening to the news and cringing, knowing Vietnam was part of the problem yet being unable to tell anybody."⁹⁸ After about ten years, Pietz decided that she needed to get a grip on her life. She realized that Vietnam had more control over her than she did of it. "When I think about it [Vietnam] too hard I get kind of desolate: no direction, no purpose, and no reason to get up in the morning. That's how I get when I'm really wrapped up in thinking about it. I feel very desolate. I feel a big, black hole and I don't know what's inside it and I don't even know how to tell anybody why. All I know is I want it to go away, only I don't know how."⁹⁹

Penni Evans (ARC, SRAO, 1970-1971) did not realize the impact that Vietnam had on her or her perceptions. She said, "I turned off emotions, resented the hell out of authority and normalcy, and felt I couldn't fit into society. I've had more than six jobs since I returned with the longest lasting barely two years, and long periods of unemployment."¹⁰⁰ She had

97 Marshall, *In the Combat Zone*, 106.

98 Marshall, 106.

99 Marshall, 106-107.

100 Walker, *A Piece of My Heart*, 281

severe depression, recurring nightmares, start-reactions, and was fearful of things that represented Vietnam. There were two periods in her life where she seriously thought about suicide. "I went through three separate therapy sessions lasting three to five months each and never really understood the issues or pain. Vietnam wasn't discussed much—it was unimportant, so I thought—and I thought I was crazy having Vietnam still with me years after."¹⁰¹ It was not until the SRAO reunion in September of 1983 that she realized she was not alone, or crazy and that the nightmares were not hers alone.

Help was not readily available for the women. Even military women were often overlooked. They were not considered combatants and therefore, not expected to have experienced the kind of trauma that would lead to a stress reaction. "Whether you got hurt or shot at or anything," commented Cathleen Cordova, "war is traumatic because you see the effects of it all around you. It's got to do something to you."¹⁰²

In contrast to the men who were able to receive help from Vietnam Veteran Centers organized during the early 1970s, there was no organized effort to help any of the women adjust.¹⁰³ No one seemed to realize that they might need help. No one prepared them psychologically for what they would experience before they left, and it appeared to them that no one cared when they came home. In 1982, the first study of women's experiences in Vietnam and their aftereffects showed what several other studies and individual accounts later confirmed that this was a group of people seriously, often permanently, affected by their Vietnam service. Significant percentages had suffered anxiety and depression, insomnia, nightmares, war flashbacks, thoughts of suicide. Nearly half felt some emotional numbness; over half an inability to trust or become close to others. Sixty-five percent said they felt alienated from the government, and fifty-seven percent felt they had been used by it. Included in those "symptoms" reported as still present in their lives by over half the responding women were: alienation; hypersensitivity to issues of fairness, justice, and legitimacy; cynicism and mistrust of government;

101 Walker, 282.

102 Cathleen Cordova interview with Lenna Hodnett Allredd, 21 June 1993.

103 Patience Mason, *Recovering from the War: A woman's Guide to Helping Your Vietnam Vet, Your Family, and Yourself*, (New York: Viking, 1990), 257.

and ideological changes and confusion in value systems.¹⁰⁴

The dedication of the Vietnam Memorial on November 11, 1982, helped begin to heal the wounds of a nation that had been so bitterly divided over the war. Women began to find support from others who had served and began to break down the walls that they had put up around them. Some organized reunions. Commenting on the first Red Cross reunion she attended, Penni Evans said, "that week changed my life, I hear these women talking my thoughts, my feelings. It was like, I'm not alone and I'm not crazy."¹⁰⁵

November 11, 1993: the dedication of the Vietnam Women's Memorial marked the culmination of a ten year effort to erect a monument in Washington D.C. to honor women who served in the Vietnam War. Amid tears of joy, the Vietnam Women's Memorial was presented to the nation.¹⁰⁶ As the first national memorial to female veterans, it will forever remind the American people that women have also served. The acknowledgment of women's services in war is long overdue. Women have served in every major conflict in which Americans have fought, but until recently, have seldom been recognized in historical accounts of those events or in the national monuments erected in Washington D.C.

Over the years, many of the women volunteers who served have come to terms with their experiences. The dedication of the Vietnam Veterans Memorial in 1982 and the Vietnam Women's Memorial in 1993, helped those who had pushed their experiences deep down within themselves to begin to open up and share with others who had served as well. Once these women began to speak out and tell their stories, they discovered that the American public generally was ignorant of their service in Vietnam. Most did not know that American women had been there. The least recognized female "veterans" of Vietnam, the truly invisible women, were those who served as civilians during the war. When writing on Vietnam, journalists have focused on the military and have seldom recognized the experiences of civilians. In a Memorial Day article in 1993, Nancymay Healy, who served with the Army Special

104 Jenny Ann Schnaier, "Women Vietnam Veterans and Mental Health Adjustment; A Study of Their Experiences and Post-Traumatic Stress," Master's thesis, University of Maryland, 1982.

105 Penni Evans interview with Lenna Hodnett Allredd, 7 June 1993.

106 "Celebration March," in commemorative program, *Celebration of Patriotism and Courage, Dedication of the Vietnam Women's Memorial*, November 10-12, 1993, 9.

Services, highlighted the media's narrow focus. In May of 1993, a reporter contacted her, wanting to do a Memorial Day feature on women veterans. When the reporter realized that Healy had served as a civilian in Vietnam and not in the military, she abruptly ended the interview. She wanted "real" veterans. Healy had spent her year in Vietnam working with servicemen and women, had shared the same dangers and hardships, but because she was a civilian, a veteran of the conflict, but not of the military, her experience was discounted.¹⁰⁷

Some of the civilian women who served experienced far more than most military women. No military woman in Vietnam became a prisoner of war. At least seven American civilian women, five of whom are still listed as POW/MIA, experienced capture. The media have not recognized the deaths of the fifty-seven civilian women who died in Vietnam, but focused instead on the eight military women who died.¹⁰⁸ While this is not to discount the service of the military women who served it is to make aware that there were other women who served in Vietnam.

In 1992, as preparation for the dedication of the Vietnam Women's Memorial began, Jolynne Strang, a former Red Cross SRAO woman, became concerned that nothing was being done to recognize the civilian women who died. Her research identified at least fifty-five civilian women who lost their lives in Vietnam. She felt that these women had given their lives in service to their country just as had the eight military nurses whose names appear on the Wall. She invited Cathleen Cordova, who served in the Army Special Services during the war, to help find a way to honor those women. They established "A Circle of Sisters, A Circle of Friends," an organization of civilian women who served in Vietnam. On November 10, 1993, the night before the dedication of the women's memorial, a candlelight ceremony was held at the Wall honoring these fifty-five civilian women known to have died in Vietnam. Since the ceremony in 1992, four more civilian women known to have died in Vietnam have come to light.

The two groups of women discussed in this paper by no means

107 Nancy S. Healy, "Another Kind of Veteran, But Veteran Nonetheless," reprinted from *Burlington County Times*, Edgewater, NJ, Sunday, May 30, 1993, in *Celebration of Patriotism and Courage, Dedication of the Vietnam Women's Memorial*, November 10-12, 1993, 73.

108 "Circle of Sisters ... Circle of Friends," Internet, available from <http://www.palletmastersworkshop.com/circle.html>

encompass all American women who worked in civilian capacities in Vietnam. Other women, equally heroic and dedicated, worked for numerous governmental organizations. Many women worked for the U.S. Embassy, Defense Attaché Office, CIA, USAID, and other agencies. One member of the CIA, Barbara Robbins was killed in the 1965 bombing of the American Embassy.¹⁰⁹ There were thousands of women who helped transport soldiers into and out of the war as flight attendants. There was also an impressive group of women journalists who wrote investigative pieces on the war, sometimes risking their own lives to get stories right. Dickey Chapelle (1919-1965) was one of the woman photo journalists who died in Vietnam. Chapelle was an outspoken anti-communist who had covered WWII and Korea as well as Vietnam. Chapelle's stories in the early 1960s applauded the American military advisors who were already fighting and dying in Vietnam. In the last years of her life, many of her photographs and stories were deemed too sensitive for publication as her passion for stories began to cloud her objectivity. In 1965, Chapelle convinced her editors to send her back to Vietnam. Chapelle became the first female reporter to win approval from the Pentagon to jump with American troops in Vietnam. On the morning of November 4, 1965, Chapelle was killed by a land mine while on patrol with a platoon, becoming the first war correspondent killed in Vietnam and the first female reporter to die in combat.¹¹⁰

The greatest loss in terms of numbers of American civilian women came on April 4, 1975, when a C-5A transport plane carrying Vietnamese orphans and employees from the Defense Attaché Office and other U.S. government and nongovernmental humanitarian agencies crashed in a rice paddy after a cargo door malfunctioned. This last attempt to evacuate women and children from the country, Operation Babylift, resulted in the deaths of thirty-eight civilian women.¹¹¹

The American Embassy had requested all non-essential Americans to leave the country and Laurie Stark had been contacted by Catholic

109 "Circle of Sisters ... Circle of Friends," Internet, available from <http://www.palletmastersworkshop.com/circle.html>

110 "Dickey Chapelle," *Wisconsin Historical Society*, Internet, available through <http://www.wisconsinhistory.org/topics/chapelle/>

111 "Circle of Sisters...Circle of Friends."

Charities to help escort a group of orphans to the states.¹¹² Dr. Meritt Stark was also required to escort a group of orphans as well to the states on a C-5A transport plane. Dr. Stark "prevailed on Laurie to cancel her plans with the Catholic Charities and accompany me as an escort on the C-5A." Laurie did so and she and her father quickly said their goodbyes to friends. The transport of orphans to the U.S. and other countries was part of Operation Babylift.¹¹³ About 150 infants were secured in the troop compartment of the plane, the remainder of the orphans, many of whom were older, stayed below in the cargo hold. Dr. Stark stayed in the troop compartment since most of the medical problems were likely to occur with the smaller children. Laurie remained in the cargo hold where her knowledge of Vietnamese would enable her to communicate with the older children.¹¹⁴

"About eighteen minutes after take-off, the rear cargo door blew out and disabled some of the stabilizing parts of the plane making it very difficult for the pilot to keep the plane under control." The pilot was able to turn the plane around and head back to the airport. They came within two miles of the airport before the plane crashed. The cargo hatch, with almost no survivors, cushioned the fall for those in the troop compartment. Laurie was one of those who perished in the crash.¹¹⁵ Dr. Stark went onto write that "whether or not her coming to Vietnam changed her feelings about the conflict remains in doubt. She had planned to continue the Peter Pan School and left the country only when the U.S. civilians were ordered to leave. She in no way supported the war effort, but was sympathetic with the desire of the South Vietnamese to choose their own form of government."¹¹⁶ Laurie was one of those "unofficial diplomats" that was successful in winning the hearts and minds of the Vietnamese people.

Civilian women who went to Vietnam served their country valiantly. While the two groups of women volunteers seem different, they are not so much if examined closely. Women in both groups went to help and assist others. Some went to help the Vietnamese, others to help

112 Meritt W. Stark, 41.

113 Operation Babylift was an amazing event in which over 2,000 infants and children were airlifted from Vietnam and adopted by families from around the world.

114 Meritt W. Stark, 42.

115 Meritt W. Stark, 42.

116 Meritt W. Stark, 44.

the Americans. All of them went as volunteers, which was one of the things remarkable about them. They willingly went to Vietnam at a time when many men were doing anything to avoid going to Vietnam. Civilian women in Vietnam saved thousands of lives, taught vital medical skills, taught Vietnamese children English and other subjects, provided support to GIs, increased morale among the troops, and performed an array of other duties as well. They tried both physically and psychologically, to repair the wounds the war created. However, all too often women's war experiences were never heard. When one does become aware of their stories, the question is: why do they remain unheard? Perhaps women's Vietnam stories remain unheard and untold for so long because what women have to say has never been considered a legitimate part of war's history.¹¹⁷

While the war was all around them, civilian women were ill-prepared for being in a war zone. The agencies that sent them to Vietnam provided little to no training on how to survive in a combat zone. Because they were women and noncombatants, it was assumed they would be safe. But no one is safe in a war zone, much less a war zone like Vietnam with no front lines. Ann Kelsey summed it up best, "We didn't 'serve' in combat, but we were in combat."¹¹⁸

Both NGO and governmental groups were witnesses to the pain and devastation that war created. They both became closely connected with the suffering, death, and utter chaos the war produced in their lives and the lives of those around them. They have suffered from the same stress and nightmares from the war. They have had to hide the intense emotions because as one civilian nurse in Vietnam said, "tears in Vietnam were useless."¹¹⁹

These civilian women were not entitled to veterans benefits. If they were injured in Vietnam, they could go to military hospitals and be treated for their injuries. However, once they came home, they did not have access to health care from the military, even from the injuries they received in Vietnam. Those civilian women who suffer from PTSD

117 Carol Lynn Mithers, "Women Warriors in Vietnam", 81.

118 "A Special Services Librarian Speaks to HS Students," Internet, available through, <http://www.illyria.com/women/vnwhighschool2.html>.

119 Hasselblad, *Lucky-Lucky*, 97.

cannot be treated by the Veterans Administration. Also, many insurance companies have dropped them once they found out their illnesses were war-related.

These women performed necessary and vital functions in a nontraditional atmosphere. The work women did in Vietnam was not far from what women do every day. They cared for others by being nurses, teachers or Donut Dollies. However, they performed these jobs in a foreign country immersed in a violent war. They performed these jobs under extremely stressful circumstances, and did so valiantly and tirelessly. For most of these women, they feel they made an impact on those they served and while it was one of the hardest times in their lives, it was also one of the most rewarding. More needs to be written on these women and the significant sacrifices they made in order to help the Vietnamese and the U.S. military. These women are truly remarkable in what they were able to accomplish in Vietnam, and they should be recognized more fully because of it.

Biographical Notes

Desi decided to go back to college after having her second girl. She graduated with a BA in History in April 2010. She had another child in the midst of her studies in 2009, making three total. She has been married 10 years and lives in Lehi. Her hobbies include spending time with her children, sports, shopping with her sisters, watching the history channel with her husband, and reading, reading, reading. She is currently studying to take the GRE so she can apply for graduate school at the University of Utah. She hopes to teach college and would like her emphasis to be on the 60s era with Vietnam in particular. Her inspiration and motivation for her article was in Bill Cobb's Vietnam class. The class read *A Piece of My Heart* by Keith Walker about women who served in the Vietnam war. This was an amazing book for her, she loved every individual story. She feels that we often forget that women too have a role when it comes to war and this book helped her to really see that. Her original topic for her thesis was going to be post traumatic stress in women who served in Vietnam. Professor Bill Cobb put her in touch with a woman who served in Vietnam as a civilian and as Desi talked with her she thought that women who were civilians serving in Vietnam would be a better topic because their stories have not been very well documented. There are books on nurses who served in the Vietnam war, but not any on civilian women alone.

In graduate school, she hopes to expand this paper and interview more civilian women personally. She is also working with Bill Cobb on some other projects that have to do specifically with Laurie Stark, another woman that she included in her paper. She is hoping to expand more on Laurie Stark's experience and possibly write a paper solely on her life and experiences in Vietnam.

THE LILLY LEDBETTER FAIR PAY ACT: A CONGRESSIONAL MISTAKE

MICHAEL BALSER

Introduction

There have been few things in America that have been as fiercely debated as the issues surrounding citizen's rights. The history of the nation shows the continual attempts made by Congress to both protect and limit the rights of Americans. The protection and limitation of rights evolves as the country has adopted Constitutional Amendments and Congress passes legislation. At times Congress uses their legislative power unwisely, especially when trying to push a certain agenda, and passes legislation aimed at protecting the rights of certain groups or individuals only to limit the rights of others. Congress will occasionally pass a law that has good intentions but do not fully consider the possible consequences and problems of the legislation. The Lilly Ledbetter Fair Pay Act of 2009 is filled with the good intention of creating pay equity in workplaces across America, but this legislation carries serious and potential problems. The Lilly Ledbetter Fair Pay Act is a congressional mistake because it attempts to protect the rights of employees by overturning a Supreme Court decision and changing the statute of limitations regarding Equal Employment Opportunity Commission claims, at the expense of the rights of employers.

Pay Equity

While the issue of gender pay equity has been a point of constant discussion and debate for decades, it originates from the idea that as a whole, women are paid less than men. Jody Feder and Linda Levine claim that according to a study performed in 2007, women are paid 70-80 cents for every dollar earned by men. As this trend has narrowed by less than 20 percentage-points in the last 40 years, many have argued that anti-discrimination laws should be strengthened and more measures should be enacted. However, others believe that intervention by the government is not necessary because the gender wage gap will close itself as women's

qualifications continually resemble those of men.¹

The question surrounding pay equity has attracted more attention in recent years as women have moved and become a prevalent group in the workforce. Congress has involved itself in creating and maintaining pay equity. In the last 50 years, Congress has introduced and passed different measures, including legislation that would offer added remedies to help equalize pay in workplaces across America. In 1963 Congress passed the Equal Pay Act. This act amended the Fair Labor Standards Act of 1938 and made it unlawful for companies to pay workers a lower wage based solely on their gender. The Equal Pay Act states that:

No employer having employees subject to any provisions of this section shall discriminate...employees on the basis of sex by paying wages...at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.²

The cry of the Equal Pay Act is that of equal pay for equal work. In the text of the Equal Pay Act, Congress clearly and concisely sets forth exactly what it was trying to remedy. Congress passed this act to protect the rights of American workers from gender wage discrimination.

The following year Congress passed the Civil Rights Act of 1964. Title VII of this act included a comprehensive code of anti-discriminatory rules based on origin, race, color, religion, and gender.³ Both the Equal Pay Act and Title VII overlap to cover nearly all claims of gender wage discrimination. However, there are key differences between important substantive, procedural, and remedial aspects of both the Equal Pay Act and Civil Rights Act. One major difference is that the "equal work" standard of the Equal Pay Act doesn't limit an employer's liability for intentional wage discrimination under Title VII of the Civil Rights Act. Violations of the Equal Pay Act generally violate Title VII; however, the

1 Jody Feder and Linda Levine, *Pay Equity Legislation*, (Washington, D.C.: Congressional Research Service, 2009), i.

2 *Equal Pay Act*, Public Law 88-38, 77 U.S. Statutes at Large 56 (1963), §201.

3 42 U.S. Code, § 2000e-2(a), (2000).

violation of Title VII does not violate the Equal Pay Act.⁴

The Case of Lilly Ledbetter

In the last decade, the issue of pay equity and gender wage discrimination has become even more publicized; especially in regards to the case of Lilly Ledbetter. Lilly Ledbetter worked as a production supervisor for the Goodyear Tire & Rubber Company in Alabama from 1979 to 1998. During the early years of her employment with Goodyear, Ledbetter initially received a salary that was comparable to the salaries paid to her male coworkers. However, over time a pay discrepancy developed. By 1997 the discrimination between Ledbetter and her male colleagues had widened. It was reported that Ledbetter, a nearly 20 year veteran, was being paid \$3,727 per month while the lowest paid male worker was paid \$4,286 per month and the highest paid male worker was paid \$5,236 per month.⁵

During most of the time that Ledbetter worked at Goodyear salaried employees were either awarded or denied pay increases based on performance evaluations. Ledbetter believed that her pay was discriminately low due to many decisions that reflected Goodyear's persistent discrimination against female managers and herself in particular. As a result of the poor evaluations, her pay had not increased as much as it should have if she were given a fair and unbiased evaluation. Goodyear believed that her evaluations were unbiased, nondiscriminatory, and raises were not granted due to poor work preceding the evaluations.⁶

On 25 March 1998, Lilly Ledbetter filed a pay discrimination claim with the Equal Employment Opportunity Commission (EEOC). On 24 November the following year she filed suit against Goodyear. In the complaint, Ledbetter alleged that Goodyear Tire & Rubber had violated both the Equal Pay Act by not paying equally for the work she performed relative to her male coworkers, as well as Title VII of the Civil Rights Act

4 Feder and Levine, 5

5 Jody Feder, *Pay Discrimination Claims Under Title VII of the Civil Rights Act: A Legal Analysis of the Supreme Court's Decision in Ledbetter vs. Goodyear Tire & Rubber Company*, (Washington, D.C.: Congressional Research Service, 2009), 1.

6 Ibid.

by using gender to set her wage and evaluating her performance.⁷

Goodyear's answer addressed both the Equal Pay claim and Title VII violation. Goodyear stated that the pay difference, in regards to the Equal Pay claim, between Ledbetter and her male coworkers was due to factors other than her gender.⁸ Goodyear argued against the Title VII violation claiming that the suit was time barred⁹ because Ledbetter had not filed the EEOC claim "within one hundred and eighty days after the alleged unlawful employment practice occurred."¹⁰

In district court, Ledbetter pursued only the Title VII claim and presented evidence of Goodyear's gender discrimination. A jury of her peers found that Goodyear had willingly and knowingly discriminated against Ledbetter because of her gender and awarded her \$3.8 million in back pay and damages.¹¹ However, this amount was reduced to \$360,000; \$60,000 for back pay and Title VII's cap of \$300,000 in punitive and compensatory damages.¹²

Goodyear appealed the district court's ruling to the Eleventh Circuit Court of Appeals. Goodyear maintained their original position regarding Ledbetter's Title VII claim reasoning that her pay discrimination claim was time barred. They argued that no discriminatory act regarding her pay occurred in the limitations period by showing the annual pay decision for Ledbetter was made before 26 September 1997; more than 180 days prior to Ledbetter filing the EEOC claim in March 1998.¹³

The Eleventh Circuit reversed the decision of the lower court on the basis that "a Title VII pay discrimination claim cannot be based on allegedly discriminatory events that occurred before the last pay decision

7 Complaint, *Ledbetter v. Goodyear Tire & Rubber Co.*, (N.D. Ala. November 24, 1999), ¶5-28.

8 Answer, *Ledbetter v. Goodyear Tire & Rubber Co.*, (N.D. Ala. February 28, 2000), ¶10.

9 *Ibid*, ¶2-5,9.

10 42 *U.S. Code*, §2000e-5(e)(1), (2000).

11 *Ledbetter vs. Goodyear Tire & Rubber Co.*, No. 99-C-3137-E, U.S. Dist., (N.D. Ala. September 24, (2003), 2.

12 42 *U.S. Code*, §2000e-5(g)(1), (2000).

13 *Ledbetter v. Goodyear Tire & Rubber Co.*, 421 F.3d 1169, (11th Cir. 2005), 1177-78.

that affected the employee's pay during the EEOC charging period."¹⁴ The Eleventh Circuit concluded that there was insufficient evidence to prove Goodyear acted with any discriminatory intent during the pay increase decisions of 1997 and 1998.¹⁵ The Eleventh Circuit's ruling was proper interpretation and application of the law regarding the statute of limitations for EEOC claims. Ledbetter petitioned the United States Supreme Court for a writ of certiorari which the Court granted in order to resolve the discrepancy between the lower courts regarding the proper application of the statute of limitations for filing Title VII claims.¹⁶

The question before the Court was "whether and under what circumstances a plaintiff may bring an action under Title VII of the Civil Rights Act of 1964 alleging illegal pay discrimination when the disparate pay is received during the statutory limitations period, but is the result of intentionally discriminatory pay decisions that occurred outside the limitations period."¹⁷ In addressing this question, the Court worked to identify the specific discriminatory employment practices performed by Goodyear.¹⁸

Ledbetter argued that that there were two different employment practices that could show that discriminatory actions did take place within the 180 days previous to her filing an EEOC claim. Ledbetter's primary focus was on each individual paycheck that was issued by Goodyear during the EEOC charging time. Calling on precedent,¹⁹ Ledbetter argued that each paycheck she received should be viewed as a separate and distinct act of discrimination which would trigger a new charging period.²⁰ An Amicus brief filed on behalf of Ledbetter supported her argument and claimed that the Eleventh Circuit incorrectly applied *Morgan* by rejecting the idea of a continuing violation theory and

14 Ledbetter v. Goodyear Tire & Rubber Co., 550 U.S. 618 (2007), 622-23.

15 Ledbetter, 2005, 1186-87

16 Ledbetter, 2007, 623.

17 Ibid, 623.

18 Ibid, 624.

19 National Passenger Railroad Corp. v. Morgan, 536 U.S. 101, (2002), 114.

20 Ledbetter, 2007, 624.

disregarding that each discriminatory paycheck is actionable.²¹

In answer to Ledbetter's arguments, the Court used four cases, including Ledbetter's own precedent case of *Morgan*, to show that each paycheck issued is not an individual act of discrimination but that "the critical question [is] whether any present violation exist[ed]."²² The Court concluded that the continuing effects of discrimination from outside the charging period did not create a new violation.²³ In the opinion of the Court, Justice Alito stated:

The Equal Employment Opportunity Commission charging period is triggered when a discrete unlawful practice takes place. A new violation does not occur, and a new charging period does not commence, upon the occurrence of subsequent nondiscriminatory acts that entail adverse effects resulting from the past discrimination. But of course, if an employer engages in a series of acts each of which is intentionally discriminatory, then a fresh violation takes place when each act is committed.²⁴

Ledbetter's second focus was that her pay raise denial in 1998 was "unlawful because it carried forward intentionally discriminatory disparities from prior years" and that her paychecks would have been larger if she had not been discriminated against.²⁵ In answering this claim, the Court stated that the EEOC charging period began on the date when the actual act of discrimination happened (ending 180 days later) and not when the effects of the acts were felt."²⁶

On 29 May 2007, the Supreme Court upheld the Eleventh Circuit Court ruling in a 5-4 decision. They reasoned that while Ledbetter may have been discriminated against at some point, Goodyear performed no discriminatory act during the 180 day EEOC charging period and that she should have filed her EEOC charge within 180 days of the alleged

21 *Brief of Amicus Curiae*, No. 05-1074, (2006), 8-9.

22 *United Air Lines, Inc. v. Evans*, 431 U. S. 553 (1977), 558.

23 *Ledbetter*, 2007, 625.

24 *Ibid*, 628.

25 *Ibid*, 624.

26 *Lorance v. AT&T Technologies, Inc.*, 490 U. S. 900 (1989), 907-908.

discriminatory pay decision.²⁷ Justice Ginsburg wrote the dissenting opinion in which she argued that pay discrimination generally occurs in small increments and is much harder to track.²⁸ She also argued that “paychecks perpetuating past discrimination...are actionable not simply because they are ‘related’ to a decision made outside the charge-filing period, but because they discriminate anew each time they issue.”²⁹ In her final statement, Ginsburg told Congress that the ball is in their court and “the Legislature may act to correct [the Supreme Court’s] parsimonious reading of Title VII.”³⁰

The Court’s decision showed their concern and desire to protect the rights of both employees and employers. Had Ledbetter’s claim been allowed to proceed it would have undermined Title VII procedure and deadlines. These procedures and deadlines were in place to protect employers from defending themselves against long past discrimination claims.³¹ Feder states that “according to the Court, Title VII’s short filing deadline reflects Congress’ strong preference for the prompt resolution of employment discrimination allegations through voluntary conciliation and cooperation.”³² The concept of an employee having only a limited number of days to file an EEOC charge is well founded and allows for discrimination and other issues to be handled quickly. These rules and statutes are in place to protect the rights of both employees and employers.

Congressional Involvement

The suit filed by Ledbetter did not receive much attention previous to the Supreme Court’s ruling in 2007. The decision infuriated many legal and women’s rights groups across the nation. Those groups immediately called on Congress to correct the Court by passing new laws and regulations that would overturn the 2007 decision. In *The Second Treatise of Civil Government*, John Locke states that “the end of law is not to abolish or restrain, but to *preserve and enlarge freedom*: for in

27 Ledbetter, 2007, 628.

28 Ibid, 645.

29 Ibid, 647.

30 Ibid, 661.

31 Ibid, 680.

32 Feder, 3.

all the states of created beings capable of laws, where there is no law, there is no freedom: for liberty is, to be free from restraint and violence from others; which cannot be, where there is no law [emphasis added].”³³ Locke recognizes that without law there can be no freedom and argues that the purpose of law is to preserve and enlarge freedom. In the case of Lilly Ledbetter, Congressional involvement would contradict Locke’s idea of law. A new law creating pay equity would be narrow in scope, would limit the rights of employers in order to expand the rights of employees, and would not preserve and enlarge freedom. A new law has to potential to cause many unforeseen problems.

The Democrats in Congress used the Court’s ruling as a rallying cry for the cause of pay equity.³⁴ They reacted quickly, taking Justice Ginsburg’s invitation from the dissenting opinion, to amend the law. Plans were made to introduce legislation to accomplish this end. House Majority Leader Steny Hoyer and California Congressman George Miller, Chairman of the House Education and Labor Committee, touted that new legislation would be passed to make sure that what happened to Lilly Ledbetter would not happen to anybody else.³⁵ Representative Miller stated the following in regards to the new pay legislation:

A key provision of the legislation will make it clear that discrimination occurs not just when the decision to discriminate is made, but also when someone becomes subject to that discriminatory decision, and when they are affected by that discriminatory decision, including each time they are issued a discriminatory paycheck.³⁶

In their attempt to overturn the Supreme Court decision, House Democrats would write in provisions allowing each paycheck to begin a new EEOC charging period while lengthening the limitations period.

The 110th Congress introduced H.R. 2831, the Lilly Ledbetter

33 John Locke, *The Second Treatise on Civil Government*, (1690), 57.

34 Robert Barnes, “Exhibit A in Painting Court as Too Far Right,” *Washington Post*, 5 September 2007, A19.

35 Jesse J. Holland, “House Dems Target Court’s Pay Ruling,” *Time Magazine*, 12 June 2007, 12.

36 Ibid.

Fair Pay Act of 2007. The purpose, as stated in the bill, was "to clarify that a discriminatory compensation decision or other practice... occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes."³⁷ This piece of legislation would essentially overturn the Supreme Court's ruling in the *Ledbetter* case and amend Title VII (along with other statutes) to allow each paycheck, after a discriminatory decision was made, to be considered itself discriminatory. The House passed H.R. 2381 and sent the resolution to the Senate for debate and passage.

Over the coming months as the Senate debated the bill, Democrats used Lilly Ledbetter to build support for both the proposed legislation before the Senate and for Democratic presidential candidate Barack Obama. As the 2008 elections approached, Senate Republicans became more outspoken in opposition to the new pay equity legislation. Senator Charles Schumer stated that "politically, it's the dumbest thing [Republicans] could ever do. Women are a majority of the vote... and issues like this will matter in this election."³⁸ However, S.1843, The Fair Pay Restoration Act, failed to achieve cloture before the 110th Congress adjourned and the bill was defeated.³⁹

In January 2009 the 111th Congress convened with Democrats having control of the Senate, House of Representatives, and Presidency. The House of Representatives introduced H.R. 11 on 6 January 2009 for the purpose of amending Title VII to increase the statute of limitations for filing an EEOC charge. The resolution was passed in the House and sent to the Senate.

The resolution came to the Senate but did not pass because the House version of the legislation incorporated the text of the controversial Paycheck Fairness Act.⁴⁰ Instead, the Senate debated and passed S.181, The Lilly Ledbetter Fair Pay Act of 2009, on 22 January 2009 by a vote

37 Congress, House, *Lilly Ledbetter Fair Pay Act of 2007*, 110th Cong., 1st sess., H.R. 2381, *Congressional Record*, daily ed. (18 July 2007).

38 Lori Montgomery, "Senate Republicans Block Pay Disparity Measure," The Washington Post, 24 April 2008, A04.

39 Feder, 5.

40 Ibid.

of 61-36. The Senate version, including changes and amendments, was sent back to the House for a final vote. Five days later, the House of Representatives passed the bill by a vote of 250-177. On 29 January 2009 the Lilly Ledbetter Fair Pay Act became Public Law 111-2 when President Barack Obama signed the bill into law.⁴¹

Congressional Mistake

The Fair Pay Act is a congressional mistake because it overturns a Supreme Court decision. When Ledbetter's case was argued and decided, the Court ruled wisely taking into consideration many complex aspects. They appropriately applied precedent and judiciously interpreted both the Equal Pay and Civil Rights Acts. Their decision upheld the current law while protecting both the rights of employees as well as the rights of employers. Congress, in their disagreement with the Court, wrote the Ledbetter Act with a retroactive effective date; this, in essence, overturned the Court's ruling in the case of Ledbetter vs. Goodyear. Section six of the bill states:

This Act, and the amendments made by this Act, take effect as if enacted on May 28, 2007 and apply to all claims of discrimination in compensation under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, title I and section 503 of the Americans with Disabilities Act of 1990, and sections 501 and 504 of the Rehabilitation Act of 1973, that are pending on or after that date.⁴²

The effective date of 28 May 2007 is one day previous to the day on which the Supreme Court made their ruling on Ledbetter vs. Goodyear and applies to all claims pending on or after that date. The retroactive date does pose an interesting question for the case of Lilly Ledbetter. Although nothing has happened yet, the retroactive date may leave the potential for action to still be taken by Ledbetter because of the Act's wording in section six.

Many criticized Congress for passing an ex post facto law because the effective date was nearly two years previous to the law being passed.

⁴¹ Ibid.

⁴² *Lilly Ledbetter Fair Pay Act*, Public Law 111-2, 123 *U.S. Statutes at Large* 5 (2009), 6.

The Constitution prohibits Congress from passing an ex post facto law.⁴³ However, the Supreme Court, in an earlier decision, ruled that the ex post facto provision in the Constitution only applies to criminal matters and not civil cases.⁴⁴ Thus, the retroactive date of the Fair Pay Act, being a civil matter, is perfectly within the bounds of the law. However, Congress' action in overturning the Supreme Court's decision is unwarranted, merely pushes a political agenda, and is a mistake that may potentially cause many problems.

The Ledbetter Act is also a mistake because in amending Title VII of the Civil Rights Act the statute of limitations of the EEOC charging period changed from 180 days to 730 days and defines that each paycheck after any discriminatory action is considered discriminatory and begins a new EEOC charging period.⁴⁵ By drastically increasing the statute of limitations, Congress has opened the door for many more lawsuits to be filed against employers. Stuart Taylor states, "These measures [in the Ledbetter bill] seem likely to make it harder than ever for employers to defend themselves against bogus discrimination claims, effectively adding to the cost of each new hire."⁴⁶ Dave Smith, President of the Employers' Association said, "I can see it potentially creating a lot of class action lawsuits. It's good to have fair workplaces but you've got to give employers an opportunity to correct the workplace as it exists — not how it may have existed 10 or 15 years ago. If you apply today's standards to the standards of something 10 to 15 years ago, yes, there will probably be problems."⁴⁷

The possibility of employees having standing to sue years later carries potential problems. With the new Fair Pay Act, employees are now free to wait years before filing charges and bringing suit against employers. The change of the statute of limitations coupled with the

43 U.S. Constitution, Article 1, Section 9.

44 See *Calder v. Bull*, 3 U.S. 386 (1798).

45 *Fair Pay Act*, 3.

46 Stuart Taylor, "Does The Ledbetter Law Benefit Workers, Or Lawyers?," *National Journal*, 31 January 2009, 1.

47 Anne Bond Emrich, "Fair Pay Act Potentially Dangerous to Employers," *Grand Rapids Business Journal* 27, no. 6, (9 February 2009), 8.

clarification that each paycheck is now a discriminatory act poses major problems for employers. Don Lawless, a labor and employment attorney, believes that since each paycheck starts a new 730 day EEOC charging period the statute of limitations for pay discrimination will ultimately disappear.⁴⁸ Peter Kok, member of Miller Johnson, makes a valid argument for the necessity of a limitations period. He states, "In every area of the law there are statutes of limitations: At some point, bygones are bygones. You bring a claim in a timely manner so witnesses are still around, documents are still there and a person can defend himself."⁴⁹

One foreseeable problem is that the longer the employee waits to file an EEOC claim, the harder it will be for employers to contest that discrimination claim. Employees will be able to give one sided accounts of discrimination and may even bring false charges against employers. Key witnesses could have retired or died, and performance or evaluation records may have been discarded.⁵⁰

Another problem with the extended limitations period is the potential change in ownership of a company and the effects of wage discrimination. When a company is sold or comes under new management, employees, under the Fair Pay Act, can bring suit against a group who may have no idea of possible discrimination and who have had nothing to do with pay decisions. California Congressman Buck McKeon dislikes the idea of employees, especially those who are retiring, being able to seek damages against companies whose management had nothing to do with the acts of discrimination.⁵¹

Conclusion

The Lilly Ledbetter Fair Pay Act is touted as being a giant step for employees' rights (especially those of women workers). Many believe that Congress' actions were honorable and that they are champions in the workplace as they attempted to legislate pay equity. However, the Lilly Ledbetter Fair Pay Act is a congressional mistake. By overturning the Supreme Court's decision in *Ledbetter v. Goodyear* and changing the

48 Ibid, 1.

49 Ibid.

50 Taylor, 4.

51 Holland, 12.

statute of limitations for EEOC claims, Congress accomplished their goal of protecting the rights of employees across America; however, they did so and at the expense of the rights of employers. The Fair Pay Act shows a hasty, undeliberated political agenda that may temporarily mask the pay equity problem while creating other potential problems. While all of the negative ramifications of the Fair Pay Act have not yet been manifest, it can be certain that true pay equity will never be realized as long as the rights of some are put behind the rights of the others.

Biographical Notes

Michael Balser is in his final semester at Utah Valley University where he is studying Political Science. The highlight of Michael's undergraduate studies was his time spent working as an intern in Washington, D.C. for Senator Robert F. Bennett. In Washington, Michael was able to perform policy research and attend many events, including the inauguration of President Barack Obama.

The topic of Lilly Ledbetter became of interest to Michael while he worked on a policy research project dealing with labor legislation during his internship in Washington. He followed the Lilly Ledbetter Fair Pay Act thru the first month of the 111th Congress and spent many hours in the Senate Gallery listening to the debate. He found the topic terribly interesting and began to research it more thoroughly. Through his research, Michael has enjoyed learning more about the interactions between law and politics.

Decline of the Medieval Hungarian Empire: The Path to Mohács

Adrian Burton

When asked about medieval nations most offer the usual names, England and France, and overlook the great nations of Eastern Europe. Yet in the year 1485, the Hungarian Empire stood at the height of world power. King Mathias Corvinus Hunyadi, a charismatic, educated and progressive king ruled the vast empire and oversaw a rising renaissance of science and the arts. Hungary stood protected by legendary *Fekete Sereg* (The Black Legion) the first well paid, full time professional military in all of Europe. However, upon Hunyadi's death the Magyar nobility would greedily assert their own interests: installing a weak king, disbanding the Black Legion, oppressing the peasantry, and leaving the nation defenseless in the face of the expanding Ottoman Empire. Hungary as a nation rivaled its contemporaries politically, financial and militarily, under King Matthias's rule, but tragically, all its progress would erode under petty infighting. The Hungarian people would suffer for centuries for the failings of their selfish nobility and puppet rulers.

To understand why the fall of Hungary is a significant event, it is important to understand the geographical significance and scale of its empire. Located "at the western terminus of the Eurasian steppe, in an area traversed by rivers -notably the Danube system- and protected by mountain ranges -notably the great arc of the Carpathians-"¹ it stood as gatekeeper of the south eastern land route to Europe bound between the Adriatic and Black Seas. At the height of its power, Hungary's dominion "extended from Servia to Silesia,"² or in more current terms, Serbia to Poland, north to south, and Austria to Moldova east to west, larger than modern France.

By size alone it easily qualified as a major European power, yet in addition to its land the Hungarian Empire had a rather progressive bill of

1 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 79.

2 G. G. Zerffi, *Hungary under King Matthias Hunyadi, Surnamed 'Corvinus.'* 1458-1490 (Transactions of the Royal Historical Society New Series, Vol. 1, 1884) 263.

rights, called The Golden Bull and established by Magyar nobles in 1222. The Golden Bull is frequently called the "Magna Carta of Hungary."³ Among the many basic laws it established were noble voting rights, no inherited titles or public charges (including the monarchy), and the right to resist the monarchy. Each of these rights would play a significant role in the rise and fall of Hungary.

The Ottoman Empire had harried the Hungarian buffer states in the Balkans since 1389, but it would be "the fall of Constantinople to the Turks in 1453 [that] alerted all of Europe to the Ottoman threat."⁴ With the fall of Serbia in 1455 and then the siege of Belgrade in 1456, Hungary faced Sultan Mehmed II's army of 100,000 at its doorstep. Although the Hungarian response to the invasion of Serbia was slow and ineffective, the response by veteran leader John Hunyadi to Belgrade was rapid and immensely successful. He would mobilize some 10,000 soldiers from his estate and retinue; this combined with the 7,000 standing defenders of Belgrade and some 30,000 Hungarian peasants responding to the call for a crusade against the invaders allowed Hunyadi to repel the much larger Ottoman forces.⁵ His swift defense of the castle became a legend overnight and raised John Hunyadi to the status of a national icon.⁶ Described as "[t]he last great captain of medieval Europe,"⁷ Hunyadi defended Belgrade and "delayed the Turkish conquest of Hungary by two generations."⁸ The Ottoman invaders, struck down by Hunyadi, would not come calling again for 70 years. However, the victory at Belgrade was to be John Hunyadi's last, as he would suddenly die two weeks later in an epidemic of plague that swept Belgrade.⁹ Hunyadi's final words would prove prophetic, "Do not quarrel among yourselves. If you should

3 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 40.

4 Peter Sugar, Peter Hanak, and Tibor Frank. *A History of Hungary*. (Bloomington and Indianapolis: Indiana University Press. 1990) 69.

5 Ibid.

6 Ibid.

7 R. W. Seton-Watson. *Transylvania*. (I) The Slavonic Review Vol. 1, No. 2 (Dec., 1922) 312.

8 Ibid.

9 Peter Sugar, Peter Hanak, and Tibor Frank. *A History of Hungary*. (Bloomington and Indianapolis: Indiana University Press. 1990) 69.

waste your energies in altercations, you will seal your own fate as well as dig the grave of our country.”¹⁰

The legacy of the Hunyadi family, however, would not end at Belgrade. Upon the death of King Posthumus in 1457, John Hunyadi's son Matthias -with help from his uncle, the Count Szilagy- would be elected by acclamation as King of Hungary.¹¹ He was only fourteen, but the Golden Bull made his election possible, as the right of the nobility to elect their king was well established. The Golden Bull played a defining and powerful role in Matthias's long reign. Upon his accession to the throne, Matthias took a new surname Corvinus (inspired by his family crest that depicted a raven holding a ring), rooted in Latin for raven.¹²

King Matthias Corvinus would prove to be a unique individual. He was described by one historian as “a true renaissance king, a fine brave soldier, a first class administrator, and outstanding linguist, learned astrologer, and an enlightened patron of the arts and learning.”¹³ In addition to being an independent ruler, he appears to have been a very practical king as well. For example, he refused Pope Pius II's call for him to crusade against the Turks.¹⁴ The Crusade would have been wasteful and illegitimate under the Golden Bull, which restricted the nobility from waging any war outside their own borders. Matthias would instead focus on the more efficacious and pragmatic goals of consolidating his nation's power, securing his southern borders, suppressing uprisings, and taking new territory to the north.¹⁵

Matthias took a cue from his father, understanding “that the country's defense needed a more reliable basis than the outdated noble

10 Sisa, Stephen *The spirit of Hungary: a panorama of Hungarian history and culture* (2 ed.). Vista Books (original from University of Michigan. 1990). pp. 56.

11 G. G. Zerffi, *Hungary under King Matthias Hunyadi, Surnamed 'Corvinus.'* 1458-1490

(Transactions of the Royal Historical Society New Series, Vol. 1, 1884) 267.

12 Ibid.

13 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 10.

14 G. G. Zerffi, *Hungary under King Matthias Hunyadi, Surnamed 'Corvinus.'* 1458-1490

(Transactions of the Royal Historical Society New Series, Vol. 1, 1884) 269.

15 Ibid.

levy,"¹⁶ which had failed to defend their ally Serbia, and which made expansion of the Hungarian Empire implausible. "In order to remedy this situation and strengthen the monarchy, Matthias embarked on a series of financial reforms."¹⁷ In 1467, Matthias implemented a new taxation system, which raised the national revenue to approximately one million florins a year, an amount on par with contemporaries such as England and France.¹⁸ This amount was also subsidized by the Hunyadi family fortune, which more than doubled the nation's income.¹⁹ The historian Michael J. Horvath elaborates this point, claiming, "with this [economic] system he was able to maintain a well equipped standing army, chiefly mercenaries. This was the famous Black Legion which won Matthias victories and gave military weight to his diplomatic activities."²⁰ The Black Legion would be "employed not only as an instrument of national defense, but also as a means of subduing the nobility."²¹ The court historian Antonio Bonfini took a count of the standing Black Legion in 1486 putting its total at 28,000²² which, upon receiving the call to battle, would nearly double the standing forces of Hungary.

In 1485, Matthias Corvinus ruled the most influential nation in eastern Europe. His Black Legion held the Ottoman Empire at bay, his control extended over most of southeast Europe, and he displayed masterful skill at both wartime and peacetime leadership.²³ But within five years he would die from gout, leaving no suitable heir. The Golden Bull

16 Peter Sugar, Peter Hanak, and Tibor Frank. *A History of Hungary*. (Bloomington and Indianapolis: Indiana University Press. 1990) 71.

17 Ibid.

18 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 10.

19 Peter Sugar, Peter Hanak, and Tibor Frank. *A History of Hungary*. (Bloomington and Indianapolis: Indiana University Press. 1990) 71.

20 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 10.

21 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 80.

22 Peter Sugar, Peter Hanak, and Tibor Frank. *A History of Hungary*. (Bloomington and Indianapolis: Indiana University Press. 1990) 71.

23 G. G. Zerffi, *Hungary under King Matthias Hunyadi, Surnamed 'Corvinus.'* 1458-1490

(Transactions of the Royal Historical Society New Series, Vol. 1, 1884) 270.

dictated that an election be held for his successor. The Hungarian Diet, apprehensive of another powerful king, "used their electoral influence to extort from his successors Vladislaus and Louis²⁴ undertakings to disband mercenary forces and respect aristocratic privileges."²⁵ The Black Legion was disbanded, and the noble levy²⁶ returned as the primary national defense. The taxes were lowered once again and all progress pertaining to peasants rights was reversed. The Magyar nobility intentionally crippled their national defense and appointed weak political leaders at what proved to be the worst possible time.

During the reign of Vladislaus Jagiellon, the well-meaning, softhearted new king²⁷, the crown would be easily swayed by the nobility, giving much of the royal lands away. Horavth notes, "the main beneficiaries were the big land owners, the losers were the peasants."²⁸ His son Louis was considered talented, but was far too inexperienced to rule effectively; thus becoming a pawn for the nobility. If this was not enough of a hindrance, the treasury was empty, and "maintenance of a defense system became impossible."²⁹ This continued disintegration of the monarchy lead to "important defections from the constellation of client states"³⁰ that had rallied to a strong king under Corvinus. This resulted in further economic, cultural, and political instability

Suleiman I the Magnificent was crowned Sultan of the Ottoman Empire in 1520, and the traditions of his people placed Hungary in his sights. Historian Paul Coles notes that "[t]he new Sultan Suleiman was expected, in accordance with Ottoman practice, to celebrate his

24 Part of the larger Lithuanian Polish Jagiellon dynasty.

25 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 80.

26 An army composed of those noblemen who did not serve as regulars at the court or under a lord. Not professional soldiers.

27 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 10.

28 Ibid.

29 Ibid 11.

30 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 80.

succession with a campaign worthy of his father's example."^{31 32} Suleiman saw Hungary weakened, without allies, and little national unity, "more than ever disordered and divided."³³ The choice to invade Hungary was simple.

The first major engagement between Hungarian and Ottoman forces came at the second battle of Belgrade in 1521. Communications to the north were cut off by the Ottoman invaders, and after a month of artillery bombardments the city fell.³⁴ Although this left Buda virtually unprotected, the Ottomans withdrew to deal with conflict in Rhodes, allowing Hungary five years to prepare for their return. When Suleiman returned in 1526, he expected a Hungarian army to engage them as soon as his forces crossed the River Drava, but to his great surprise none arrived. Renowned Scottish historian, Patrick Balfour states that "the Hungarians failed to resolve their mutual jealousies and agree on a coherent joint plan."³⁵ With no strong ruler, and relying on the impotent noble levy, no counter-attack would occur until the Battle of Mohács, and it would be the Hungarian Empire's last stand. Historian Michael Horvath sets the scene;

The fateful Turkish attack came in August of 1526. In that moment everyone realized the gravity of the situation, but it was too late. When the Sultan's armies broke the defenses, the young king did not wait for the arrival of reinforcements, but immediately left the city of Buda to join the front with a small army and his entire government.³⁶

The battle would be fought just outside Mohács, a small city in marshy

31 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 81.

32 Selim I the Grim conquered Syria and Egypt.

33 Patrick Balfour, *Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York, Morrow Quill 1977) 184 .

34 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 82.

35 Patrick Balfour, *Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York, Morrow Quill 1977) 185.

36 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 11.

country east of the Danube, a murky landscape befitting this tremendous loss.³⁷ King Louis II arrived with 4,000 men, and along with allies such as the Poles, Bohemians and Germans, putting the total Hungarian defense at approximately 25,000.³⁸ The Ottoman forces numbered around 100,000.³⁹ The Hungarian nobility rushed their heavy cavalry into a charge against the highly trained, better-armed, numerically superior and tactically positioned Janissary⁴⁰ forces.⁴¹ The charge broke and was quickly surrounded and slaughtered in under an hour and a half.^{42 43} The next day's counter-attack finished any remaining resistance. Michael Horvath assesses the results succinctly: "On that dark field, the whole Hungarian army was virtually annihilated,"⁴⁴ with 20,000 Hungarians dead, including hundreds of nobles, seven bishops, and King Louis, who crowned with his armor weighing him down in the Csele creek.^{45 46} There was no one left to organize any resistance, and the capital city of Buda was open for the taking.⁴⁷

Without anyone left to govern, the nation would attempt to find

37 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 83.

38 Patrick Balfour, *Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York, Morrow Quill 1977) 185.

39 David Eggenberger, *An Encyclopedia of Battles* (New York: Dover Publications 1985) 279.

40 The Janissary forces of the Ottoman Empire were a battle hardened infantry force known for their fearlessness and skill in battle. They were dreaded opponents.

41 Patrick Balfour, *Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York, Morrow Quill 1977) 186.

42 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 11.

43 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 83.

44 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 11.

45 Patrick Balfour, *Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York, Morrow Quill 1977) 186.

46 Michael J Horvath. *Hungarian Civilization: A Short History*. (College Park, University of Maryland 2000) 11.

47 Paul Coles. *The Ottoman Impact on Europe*. (London: Coles and Thames and Hudson, 1968.) 83.

leaders, but old divisions would again hinder the nation's defense. They elected two kings, John Zapolya of Transylvania and Ferdinand of Austria, neither of whom would be able to save the nation as a whole, and both retained only fractions of Hungary after the Ottomans had their say. The Hungarian renaissance started by Matthias Corvinus would die thirty-six years after him, and all progress in eastern Europe would stagnate for centuries;⁴⁸

Hungary's territory would be carved into three pieces: Royal Hungary, ruled by the Hapsburg Archduke Ferdinand, the remaining western section of Hungary; Transylvania, ruled by Prince John Zapolya whom would pay annual tribute to the Suleiman;⁴⁹ and finally Ottoman Hungary, the core of the once-powerful nation, was now ruled by Suleiman. This was known as the Age of Trisection, and is considered the bleakest in all of Hungarian history.⁵⁰

Hungary, a nation that once had the strength to defy the Hapsburgs, attack the Ottomans, and expand their borders with force was finally sundered at Mohács. Western Europe would be caught off guard by the fall of Hungary and scramble to stop Suleiman I at Vienna 800 miles from where the Sultan began. The reigns of the Jagiellon kings, calculated by the Hungarian nobility, undermined everything the Hunyadi dynasty had built, its wealth, defense, allies, and progress. The weak Jagiellon kings having been placed into power were pressured by the nobility into further weakening the monarchy with concession after concession. The nobility, resenting the rule of such a strong leader like Matthias elected Louis II instead. A twenty year old pawn ascended to power when they needed a decisive figure such as Matthias, just to sweeten the pockets of already wealthy nobility. Hungary would lose everything to this decadence, and the nation would take centuries to recover. As many in the West have already forgotten or never knew, the tragedy of August 29, 1526 lingers on with the Hungarian people today. In times of disaster, they often

48 G. G. Zerffi, *Hungary under King Matthias Hunyadi, Surnamed 'Corvinus.'* 1458-1490

(Transactions of the Royal Historical Society New Series, Vol. 1, 1884) 272.

49 Patrick Balfour, *Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York, Morrow Quill 1977) 188.

50 Michael J Horvath. *Hungarian Civilization: A Short History.* (College Park, University of Maryland 2000) 12.

defiantly remark, "*Több is veszett Mohácsnál*" (No matter, more was lost on Mohács field.)⁵¹ The echo of the battle rings on in the collective memory of the Hungarian people, reminding them of what was lost and what might have been.

51 Patrick Balfour, *Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York, Morrow Quill 1977) 187.

Biographical Notes

Adrian Anthony George Burton is currently a junior in the History Secondary Education program at UVU, having previously earned my history associates in '06. He hopes to teach high school history and pass on the passion he has for the past with other students. He was born in Toronto, Canada to first generation Dutch and British immigrants. At the age of three his parents moved to Saudi Arabia where he spent his childhood wandering the outskirts of the oil town Dhahran. He lived there until the Gulf War broke out, at which time his family immigrated to Utah. He is a freelance writer in his spare time and enjoys a nerdy diet of video games, paper / dice games and sci-fi / fantasy books.

Life in Salt Lake's Hard-Core Punk Underground

Andrew Cano

The state of Utah has received a lot of criticism since its inception, specifically, being labeled as culturally backwards compared to the rest of the United States. In and out of the State, there is the assumption that it is religiously oppressive. Salt Lake City (Utah's Capital City) has a little known secret. Starting in the late 1970s it began a very vibrant underground punk scene that carried on into the Nineteen Eighties and beyond. Unaware to most, Salt Lake was a breeding ground for independent music and art. Almost every major participant in the underground American hard-core punk scene was playing gigs in Salt Lake supported by its own local talent. Salt Lake's underground music scene impacted Salt Lake's future independent music scene and other scenes around the country. Musicians and artists created their own music, clothing, shops, record labels, and music clubs. During a time when major record labels controlled the airways, Salt Lake punks were creating their own music community and sub-culture. The mid-eighties into the early 90s were a highly successful period for Salt Lake. I was one of the lucky few who were able to be a part of this vibrant underground scene.

The Dawning of Punk Rock

The late 70s was a breeding ground for a new kind of music and clothing style in the United States and Europe. Many of America's youth had become bored with the mellow sounds of soft rock, the arrogance of progressive rock and the over indulgent dance scene known as Disco. Kids were disillusioned by their parents' former radicalism and current indulgence in consumerism. Unlike some of America's earlier music movements in Motown, Greenwich Village and San Francisco, hard-core punk was developing in the beach towns and suburbs of Southern California, Washington D.C., Boston, and New York's Lower Eastside. What would later be coined as "punk rock" emerged in New York in the early 70's with bands like the Ramones, Blondie, Richard Hell and the Voidoids, & The Heartbreakers. Many of the early punk bands trace their roots to early, obscure bands of the late 60s and early 70s like The Stooges (Detroit) and The New York Dolls (New York). Eventually, what

the music industry referred to as “punk” would spread to all over the United States and the rest of the industrialized world. In the late 70s a more aggressive style of punk came to be known as hard-core punk and then just hard-core.

Punk impacted American and English youth, especially in places like London, New York and Los Angeles. The New York, Los Angeles and London Punk scenes began to influence young suburban American youth. Young Americans started recreating it with a much harder and faster edge, which became hard-core punk. Hard-core was also influenced by early British heavy Metal bands. A number of the 1st wave punk bands had recorded on major corporate music labels. Hard-core punk would not have that opportunity. Jon Shuman of Salt Lake City hard-core punk band the Massacre Guys recalls,

“Well, labeling rebellion as “punk” was essentially invented by Malcolm MacLaren and the media as a marketing tool. The media declared that punk was dead when they couldn’t figure out how to exploit it. So the music industry co-opted the “punk” look, watered down the music and re-branded it as “new wave.” At the same time, pop stars like Madonna and Cindy Lauper were dressing like Siouxi Sioux and Exene and selling tons of records. That was fine by me because the mainstream’s lack of interest allowed punk music to thrive. Every city had its own great bands and independent record labels and fanzines, and there weren’t any big money people trying to dictate what the bands should sound like or how to market themselves.”¹

At that time, there was no possible way to get a punk or a hard-core punk band signed to a major record label especially in the years following the first wave punk bands. Popular music in all its forms wanted nothing to do with punk or any of its future participants. Van Dorston also said, “When the superstars of punk dissolved into the corporate rock world, commercial media like *Rolling Stone* hailed the Sex Pistols and the Clash as the only legitimate icons of punk, and assumed the same thing happened to the whole subculture when members of the respective bands went on to more commercial dance-club-scene in the form of

Public Image Ltd. and Big Audio Dynamite. This is not true. Nor is the other view accurate; that the punk subculture stagnated into a musically conservative, politically passé stage of nostalgia.”² Even though punk was no longer a viable market for the mainstream recording industry, it still lived on in the hard-core punk scenes.

My Life in Salt Lake's Punk Underground

Salt Lake City's hard-core punk underground had its' beginning in the late 1970s. Consisting of a handful of fans devoted to the music and fashion, Salt Lake Punks created a scene like many others were creating across the United States during this time period.

Brad Collins, a major contributor in the Salt Lake Hard-core Punk scene, began a radio program called *Behind the Zion Curtain* in 1979. Broadcast from the local independent radio station KRCL, Collins played the newest in hard-core music on Saturday nights to young devoted fans ever week.

It was from Collin's show that I learned about pioneer hard-core bands like Black Flag, The Freeze, and Minor Threat, as well as the European hard-Core groups like Gepøpel, G.B.H., Subhumans, and Discharge and it was the only radio program dedicated to playing hard-core punk in the late 1970s through the mid 1990s. I was familiarized with Collins show at the young age of nine back in 1985. My older brother introduced me to it because we shared a bedroom and he controlled the stereo. My brother Christopher is five years my elder and was getting into the Salt Lake punk scene. I had no intentions of following in his footsteps but eventually what I initially considered noise began to attract my attention and I became a devoted fan of Collins show and the music he played. My primary venture into the punk scene was more out of an emulation of wanting to be like my brother but eventually it became a place where I could express my individuality.

In Utah there was no other place on the radio to be exposed to this underground movement. Utah is a highly religious state and very conservative. Even though I was a part of the predominant religion, I

reveled in the fact that I was a part of something secret to most people. Several of my friends in the scene felt exactly the same way. It was like being in a secret club and I was constantly on the lookout for the next show and the next band that would come our way. These were my bands and this was my music, and everyone outside the scene was oblivious.

My friend Stormy Shepherd Vehnekamp, a tour organizing manager and former local gig organizer, put on numerous Hard-Core shows in Salt Lake, recalls Collin's radio show.

"I ... heard Brad Collins on his radio show (Sat. night at midnight) called "Behind (or Beyond) the Zion Curtain" on KRCL and used to stay up and tape his show so that I could hear new bands."³

Collin's weekly show not only provided the scene with new music... but also helped bands making their way into town have a place to play their music. In an interview with Les Grant from the punk fanzine *Maximum Rock-n-Roll*, Collins explained his beginning in the scene, "I started doing my radio show in 1979; we started doing punk shows, like live shows, in 1983. We did 2 in '83, which was a big year for Salt Lake"⁴. His first shows were done in basements and at the Indian Walk-in Center in the Southern part of Salt Lake. Local bands would get the shows started for the out of town bands. Local bands carried a lot of clout. The scene would have died if local bands did not exist. Local shows would draw just as many people if not more than some of the out-of-town bands. Recalling my first Stench show in the early nineties, I was amazed at how many people showed up for a local act. Bad Yodelers and Stench shows were always a mystery to me because it was generally the only time you would see non-punk kids at Hard-Core punk gigs.

Unfortunately, I was not part of the early days of the scene but I was witness to a slew of great shows by both local and out of town bands

3 Stormy Shepherd Vehnekamp interview 04/02/2007. Stormy Shepherd Vehnekamp was a rarity in the scene back in the 80's and early 90's as a woman. She was into the music and actively helping to keep it alive by putting on shows and promoting bands.

4 Les Grant Brad Collins and Daphne Menden Interview *Maximum Rock-n-Roll* V #37, (1986): 36-38. Available at <http://www.operationphoenixrecords.com/mrrissue37.html> as of 16 April, 2007.

in the later days of the scene. My very 1st show in nineteen-ninety was the Circle Jerks, The Weirdos, and local band Victims Willing. The show took place at one of the most successful venues of the late 80s and early 90s, The Speedway Café. Although I had been participating vicariously in the scene through Collins radio show, I was not old enough to start seeing the bands I adored until this time period when I turned fifteen. Seeing one of Los Angeles's earliest Hard-Core bands Circle Jerks and even older L.A. punk band the Weirdos was a dream come true. After having attended over two hundred gigs and concerts, this one remains close to my heart. I was most impressed with the local band Victims Willing. They had an energy and ferocity that I had never witnessed at that time in my young life. The moment I heard that first cord I knew I was in. This was my place and where I wanted to be. Even though I had been listening to the music for several years, hearing it live was completely different. It was a life altering experience.

Collin's other great contribution was his record store known as Raunch Records. Raunch came into existence in 1984 because of the money earned from the shows that he and his partner Daphne Menden sponsored. Collins and Menden explain their reasons for opening the store,

"Well, we opened Raunch to provide an alternative to the record stores in town, an outlet for more of the hardcore music and industrial music or whatever—you know, that wasn't the norm to be presented here. There are stores that carry part of the product, but in terms of getting everything or trying to get more of the product in, nobody was really taking chances. So we opened the store to give lower prices, buy the product, and uh, generally support the bands and the independent distributors that have been around for 10 years trying to promote this music . . . actively take part in the scene as opposed to just passively going to shows and letting everybody else do the things that make it work. We decided that we'd participate in the actual process of making an alternative independent network".

A former prosthetic factory, Raunch was located on the then outskirts of the city next to Pioneer Park in downtown Salt Lake City. Every kid interested in the Hard-Core Scene would make a pilgrimage

to Raunch and brave passing the drug addicts and transients to buy the latest music, clothes and other paraphernalia that parents would come to loath. Raunch was a punk icon in the Salt Lake scene and abroad and to this day is still remembered with fondness. Raunch⁵ became the portal to another world. Though Raunch was not the first place to sell the burgeoning punk and hard-core music (Cosmic Aeroplane, originally a head shop/bookstore, sold Hard-Core and Punk in their basement), they were the first to create a place that specialized in hard-Core music and clothing. If I ever wanted something that I could not get at a regular record shop, Raunch would have it. If they did not, Collins would find a way to get it. Recalling my early days of visiting Raunch, there was nothing like it. Grabbing the bus from Sandy to downtown, walking a mile to Raunch, dogging beggars and drunks who wanted to ride my skateboard, it was wonderful just to go and hang in a world different from my every day one. If I had minimal funds I could still walk away with tons of music and fanzines to keep me busy for weeks. I was always able to pick flyers for upcoming shows to decorate my bedroom walls. Raunch was my connection to the punk scene when I was not able to go to the clubs and see live music. My first trip to Raunch was just as powerful as my first show. I had never seen real "punks" outside of my brother and his friends in our town. I lived in the suburbs of Salt Lake City. Sandy, Utah was the last bastion of civilization of Salt Lake County back in the 80s and early 90s in our minds. Going to Raunch exposed me to the hard-core punks of Salt Lake. The moment I walked in I was in awe. The guy working the counter, who turned out to be Brad Collins, had bright pink hair and reminded me of Stephen King. The other person working the counter was a young girl who had a lettuce green Mohawk named Daphne Menden. She was amazing and very beautiful. Bear in mind, I had seen punks on the nightly news but never in person. As I was taking this in, I noticed this cow's skull with blue hair glued to it hanging in the corner. Red paint had been splattered on the walls and barbed wire strung across the walls and ceiling. At that moment, I was both scared and excited because I had never beheld anything like it. I did not buy anything on that first trip; I mostly walked around and tried to take it all

5 It recently reopened in 2010 and now operates in Sugarhouse, a small community within Salt Lake City.

in. My brother and cousin bought a few things and grabbed some flyers and then we left. Walking out of there, I knew something had changed in me. I liked what these people were doing but I was not sure exactly why. My first trip to Cosmic Aeroplane a few months later was somewhat similar. I was not able to compute all of that at the age of nine. I did not realize that by being a punk I was making a statement against the norm of society. It would take a few more years before I fully understood what had attracted me to this scene.

I did however decide at that moment that I wanted to be punk like my brother. I began spiking my hair and wearing my Dad's old army shirt to school. It had a drawing of horse skull with a Mohawk on the back of it that my brother drew. I wrote the names of my favorite bands on the back of the shirt. Many of my peers at school found my dress odd since no one else was adopting this style at that young of age. I was often called "weirdo" and "fag" because they did not know what to make of my transformation. One day I decided to wear my brother's Circle Jerks pin on my shirt to school. My 5th grade teacher was not happy at all. He instructed me to remove it because it was obscene. I had no idea what he was talking about; to me it was the name of a band I liked. I would be much older when I found out that it did mean something vulgar.

Towards the mid to late 80s Collins was promoting more shows than ever. Collins' brought a slew of hard-core bands to Salt Lake. The scene was busting wide open and began to gain greater momentum. Because of the numerous shows that were happening, my bedroom began to look like an advertisement billboard for every punk\hard-core\ and thrash metal show in town. I plastered every corner of my room with flyers and posters that I had acquired from Raunch. My parents detested the music but allowed me the freedom to express myself within reason. At this point in my life I was half way through middle school and getting closer to entering high school. I was becoming significantly more cognizant of the world around me as well as becoming more reflective about where my place was in it. Recognizing that I was different from most of my friends, I began to feel out of place. I was not into football or other popular sports like baseball and basketball. Even though my dress was toned down for most kids into punk, some of my friends found my choice of clothing a little odd at times. I wanted to fit in but I wanted to do

it on my own terms. It was around 1988 that a friend of mine introduced me to a band called Judge. Judge was from New York City. They were like most of the hard-core punk bands I was listening in sound except for one major difference. They sang about being against drugs and alcohol. They also sang about unity and acceptance of other people. There came about many within my clique of friends' experimentation with alcohol, drugs, and sex. I was raised in a good Latter Day Saint home that taught against partaking in that lifestyle. I had likewise watched people I cared about within my family suffer from the ills of alcohol and drugs. I did not want to go down that path. At the same time, I knew that I was not like the kids I went to church with. I was into art, history, and music. I did not care for Scouting or popular American sports like many of the kids at my church. Judge, opened the door for me to experience hard-core punk in a whole new way. I quickly realized that I could dictate what I wanted punk to mean to me. The punk ethos became broader in what it represented to me. It was a place where you could be accepted and were allowed to be different. I was no longer about participating in it because of my older brother or solely for a love of the music. I wanted to be part of a community that accepted me for who I wanted to be.

I initiated paying more attention to bands message rather than just their sound. I sought out bands like Judge who were a part of what became the straight edge punk scene. The straight edge philosophy had existed since the being of the hard-core punk movement in the early 80s in places like D.C. and Boston. Minor Threat was the first band to coin the term "straight edge" with their song of the same name. They were not separate from the scene; they happened to be punks who chose not to live a life of indulgence and illicit sex like others had. It was not until the late 80s that straight edge punk became a scene within the scene. I soon found that there were many in the scene that had adopted this lifestyle. Salt Lake even had its own straight edge bands like Insight and Betterway. Insights message was just as powerful to me as Judge was. Fortunately, I had found a place where I could belong, and again it was within the punk scene.

What Punk Meant to Me

The greatest contributions that punk and hard-core punk gave young kids, in Salt Lake City and around the world, was the opportunity to create something all their own. Most kids would never have a chance to become a super rock star. Their bands were never going to achieve the kinds of status that commercial rock and roll bands had. It did not matter. Punk and hard-core is about that moment in time. You were doing it because you wanted to say something or you wanted to play your music. You did not care if 10 people showed up to see you play or 500 hundred, you just wanted to make your mark. I often had as much fun with my friends in scene where there were only a handful of us at show than I did a larger show. You knew that it could be over just as fast as it started. There was not time to sit around and moan about when the next time your favorite band was going to play your town. You made your own music and your own scene because nobody else was going to do it for you. It was the do it yourself ethos, twenty-four seven. It was that attitude that created some amazing bands and some mediocre bands. Salt Lake had its fair share of both. It was what we wanted to make it and we did. There was no other place that I knew of where I could hang out with kids who were completely opposite of me politically, socially, and religiously and still have a connection. I was just as much an anomaly by being a half Mexican-Scottish Mormon punk as it was for my friend who was a Korean kid from one of the most Caucasian areas of Salt Lake. We were all variances within the larger culture and we were bonded by the music and scene we felt accepted in.

As Salt Lake punks, we created a dynamic scene and a community for people looking to belong to something. Whether it was hanging out at Bandaloops coffeehouse, Shopping at Trash, Grunts & Postures, or catching a show at The Speedway, there were people you felt connected to. It was a place for those of us who felt like we did not fit in with our peers or were not understood by the society we lived to be together. I eventually stopped participating in the scene for many years after I graduated from high school. The greatest asset I gained from having participated in the scene was the ability to look outside the box and realize that I could get along with people that I did not agree with. It is for that reason that I

believe kids are still using punk as a means of expression. I am happy that I was fortunate enough to have been a part of something that has added to Utah's music history, even if many people still are not aware of its existence.

Biographical Notes

Andrew Cano is currently working as an Adjunct Professor for the History department. He also works as a digital preservationist for Ancestry.com. He has been compiling histories from people who were involved in the early days of the Salt Lake Punk Scene for his current book. He graduated from UVU in 2009 with a BA in History, and from the U of U in 2001 with a BS in Anthropology. He is currently applying to graduate school to earn a Masters in Library Science and History. He lives in Springville with his wife and two kids.

Native American Initiative and Mobility Amongst Jamestown Settlers: A Treatment of the Smith-Pocahontas Account

Jeffrey Davis

In recent years, historians and literary critics have begun to reexamine interpretations of many topics in history, particularly those concerning social and cultural perspectives. One area which has received a great deal of attention is the important story of the relations between Native Americans and European colonizers. In opposition to popular belief, rather than being passive victims to the westward advancement of European civilization as so often portrayed, the Native Americans can be seen as active participants engaged in their own imperialistic agendas. The early contact established between Powhatan Indians and English colonists in Virginia have, in fact, been convoluted by misunderstanding and myth. When reexamined through a cultural perspective offered by New Historicist and practitioner of "Cultural Poetics" Stephen Greenblatt, the questioning of social mobility and constraint offered up in existing historical accounts of the past perhaps only reveals half the story¹. The possibility for alternative interpretations to these historical accounts opens the door to new ideas, perhaps revealing that the Indians had definite goals and objectives in their relations with the English, which in turn affected the course of events just as much as did the actions of the early European colonizers. Famous incidents, such as the relationship between Captain John Smith and Pocahontas, pointedly reveal the dynamic consciousness that natives had in approaching their situation regarding their relations with English settlers.

According to Jill Lepore, Professor of American history at Harvard University, and author of several American historical texts, it is well recognized that as the original Jamestown settlers disembarked in Virginia, they set out to claim the land for the British empire and crown². What is less widely recognized, however, is that when the initial

1 Stephen Greenblatt, "Culture," *Critical Terms for Literary Study* 2nd ed (1995): 227.

2 Jill Lepore, *Encounters in the New World* (New York: Oxford Press, 2000), 107.

encounter took place between the English settlers and the Indians who, being under the control of their great leader and chief, Powhatan, were well as intent on imperial expansion as were their European counterparts. Michael J. Puglisi, professor and current Associate Dean at Emory & Henry College points out that, "Powhatan was already successfully seeking to bring all of the Algonquian tribes of eastern Virginia under his control. Through a mixture of force and intimidation, oftentimes killing the leaders of recalcitrant tribes, removing the survivors, and repopulating the conquered territory with loyal subjects," Powhatan in time controlled the majority of these neighboring regions³.

Even as the Europeans began settling Jamestown, Powhatan began maneuvering his position amongst these foreign intruders. According to Captain John Smith in his personal correspondence to England entitled the "*Generall Historie of Virginia*" Powhatan repeatedly petitioned Smith to give up his holding in Jamestown, along with providing the Native Americans materials such as metals and copper in exchange for food and much needed supplies. Powhatan seemed to have desired control through the means of establishing trade with the English in addition to controlling the political hierarchy by seeking the cooperation of the English colonists⁴.

The clearest example of Powhatan's efforts to conduct the English colony under his imperial system according to American history professor at the University of Missouri, J. Frederick Fausz, occurred in January 1608 with the infamous John Smith-Pocahontas incident. The captive Smith described the scene:

Having feasted him after their best barbarous manner they could, a long consultation was held, but the conclusion was, two great stones were brought before Powhatan: [Sensing that his fate had been decided, Smith was not surprised when a number of natives]: layd hands on him, dragged him to them, and theron laid his head, and being ready with their clubs, to beate out his brains, Pocahontas

3 Michael J. Puglisi, "Capt. John Smith, Pocahontas and a Clash of Cultures: A Case for the Enthohistorical Perspective," *The History Teacher* 25, no. 1 (1991): 98, accessed September 15, 2010, <http://www.jstor.org/stable/494612>.

4 Puglisi, "Clash of Cultures," 99.

the Kings dearest daughter, when no entreaty could prevaile, got his head in her arms, and laid her owne upon his to save him from death⁵.

The argument over the validity of Smith's embellishment of this account is often debated in contemporary American history. While existing traditional interpretations of the incident continue to be widely accepted and regarded by many as traditional fact, there exist new contemporary interpretations and historical evidences used to justify alternative realities and possibilities to this popular tale. American literary scholar Jay B. Hubbell illustrates the traditional, widely accepted fascination that many nineteenth century historians, poets, and writers had with Pocahontas in her romanticized tale of heroism and piety. Hubbell describes many of the works produced regarding Pocahontas in the nineteenth century, to have, "glorified the young Indian girl and were centered on the belief that Smith was in fact saved from the hands of the Powhatan executioners." However, he goes on to say that, "the beliefs and works produced during this time failed to account other external possibilities, such as the ceremonial rituals in which the Powhatans participated⁶." Such alternate views are significant as they unravel innovative parallels between the inter-cultural relations of the Native Americans and the early Jamestown settlers, providing greater perspective of American history.

One of the more glorifying and traditional views of the Smith-Pocahontas account is given by American scholar and English professor Philip Young in his essay "The Mother of us All," Young passionately declares, "Pocahontas exists as a living parable, an American legend that has subtly become embedded into our folklore... She endures and stands with the most appealing of our saints."⁷

Some of the more contemporary interpretations of the Smith-

5 Lepore, *Encounters in the New World*, 125.

6 Jay B. Hubbell, "The Smith Pocahontas Story in Literature," *The Virginia Magazine of History and Biography* 65, no. 3 (1957): 227, accessed September 20, 2010, <http://www.jstor.org/stable/4246320>.

7 Phillip Young, "The Mother of Us All: Pocahontas Reconsidered," *The Kenyon Review* 24, no. 3 (1962): 391-392, accessed September 20, 2010, <http://www.jstor.org/stable/4334240>.

Pocahontas account offer up a progressively non-traditional viewpoint concerning the incident. Helen C. Rountree, professor of Anthropology at Old Dominion University and leading researcher and writer on Virginia Indian tribes, argues in opposition to traditional views that Pocahontas never saved Smith's life at all. She believes that "the authenticity of the story has an alternate side." Rountree hypothesizes that the Smith-Pocahontas story was potentially fabricated by Smith as a result of the growing anti-Indian sentiment after an attack was made on the colonists by the brother of Powhatan, resulting in the death of several hundred colonists in 1622⁸. Because of the colonists' dire situation and rapidly diminishing numbers, promotion of the Jamestown colony became necessary in order to sustain Captain John Smith's objective in establishing a prosperous society under the rule of the English crown⁹.

As Rountree summarizes, this made it imperative that Smith shed a positive light upon those back in England through his account of piety and gentleness on the part of the young native Pocahontas, even though the incident had allegedly occurred several years prior to its initial disclosure to England in 1624. She later points out that "Smith, in later correspondence wrote about two additional accounts in which his life is saved by native women of high rank when he is at the moment of direst peril¹⁰." Rountree asserts that the reason behind Smith's telling of the tale was in order to illustrate to those back in England a merciful, kind Indian nation, in hopes of promoting immigration and growth to the Jamestown colony.

In addition to Rountree's contemporary interpretation of the Smith-Pocahontas account, Robert S. Tilton, Professor of English and Department Chair at the University of Connecticut, offers up not an interpretation of the incident, but rather an anecdote as to why these multiple varying historical interpretations exist. In his attempt to examine what he calls the "half-historic, half-legendary" narrative of Pocahontas

8 Gail Tremblay, "Reflecting on Pocahontas," *Frontiers: A Journal of Women Studies* 23, no. 2 (2002): 122, accessed September 21, 2010, <http://www.jstor.org/stable/3347404>.

9 Lepore, *Encounters in the New World*, 119.

10 Tremblay, "Reflecting on Pocahontas," 122.

he acknowledges that Smith's account has "engaged the imaginations of Americans from the earliest days of the colonies"¹¹."

Tilton believes that most interpretations of the famous rescue scene described by Captain John Smith in his "*Generall Historie of Virginia*," still contemporarily receive historic acknowledgment and acceptance. Tilton later explains that, "since there are few existing accounts however, on which to corroborate the details of Pocahontas' life or uphold Smith's story, scholars continue to debate whether the rescue ever happened at all¹²." Refusing to enter into the debate over the validity of Smith's account, Tilton focuses instead on the exploitation of the Pocahontas tale and the likely possibilities behind the sharing of the account, subsequent to the events that inevitably would follow.

Titlton's discussion concludes that the Smith-Pocahontas story continues to manufacture a variety of interpretations used to support specific, and often contradictory, historical agendas. Whether it "rationalizes a number of dangerous preconceptions about Native Americans," romanticizes a Native American figure for nationalistic purpose, was told in order to stimulate growth in the Jamestown colony, occurred merely as part of a ceremonial ritual, or whether the incident ever happened at all, due to the lack of substantial historical evidence and documentation, each interpretation falls target to the specific historical agenda of the interpreter¹³.

Lepore points out that while many of the re-creations of the Smith-Pocahontas tale claim that Pocahontas rescued Smith because of her love for him, the supposed rescue was actually part of an elaborate Algonquian ritual¹⁴. She supports her argument by asserting that it was more likely for Pocahontas to have obeyed her father Powhatan by assuming her role as a participant in the ceremony, as opposed to openly rebel against her tribe

11 Joni A. Clarke, "Review: a Captive History," *The Women's Review of Books* 12, no. 12 (1995): 6, accessed September 21, 2010, <http://www.jstor.org/stable/4022228>.

12 Clarke, "Review: a Captive History," 7.

13 Ibid, 7.

14 Lepore, *Encounters in the New World*, 123.

in saving captain Smith as a result of a romantic attraction towards him. She also suggests that Smith's life was never actually in danger, and even though Smith had no "real" inclination as to the motives of Pocahontas, she undoubtedly had reasons for her own involvement and undertaking in the matter¹⁵.

While the debate over the validity and embellishment of Smith's account continues to hold sway in many historical arenas and minds of scholars, it can perhaps be seen from an ethnohistorical point of view that Pocahontas probably did in fact save Smith's life, but not out of any initial sense of love for the Englishman, as may have been previously misinterpreted. Supporting Lepore's opinion of the account, author and historian Frances Mossiker points out that in many native societies the women of the tribes made important decisions, including the fate of captives. "In the case of John Smith, Pocahontas may have not acted from her own initiative, but followed a pre-arranged plan. Bringing the captive to the point of death and then permitting him to live could have represented an adoption ritual performed in native societies¹⁶."

According to Puglisi however, Powhatan had neither intention nor reason to kill Smith, he being the captain and leader of those who could supply him with exotic and useful trade items. By threatening Smith with execution, then allowing his young daughter Pocahontas to intervene, the chief could impress upon the English captain that he held the power of life and death over the Englishmen, as he did his other subjects. In doing so, Powhatan could have additionally been seeking the cooperation of Captain Smith and his loyalty within his own imperial system. Therefore, the Smith-Pocahontas incident, which has been romanticized and exaggerated in colonial literature, art, and legend, represents an example of the "strong- armed diplomacy" employed by Powhatan to seek the cooperation of the early Jamestown settlers in hopes that they too, would contribute to his expanding influence in the region¹⁷.

15 Lepore, *Encounters in the New World*, 123.

16 Frances Mossiker, *Pocahontas*. (Cambridge Massachusetts: Da Capo Press, 1996), 84-85.

17 Puglisi, "Clash of Cultures," 99.

Capitan Smith however, did not proceed according to the Powhatans's plans. The Indian chief expected the English captain to appreciate the significance of the adoption ritual and his generosity; however, as history recounts, Smith did not become subordinate as Powhatan might have hoped. In addition, the chief had offered the settlers of the new colony favorable treatment in comparison to his other subjects. While Powhatan demanded an annual "eights parts in ten tribute" of all the commodities that his subjects possessed, all that was demanded of the English was a surplus of hatchets, swords, and other goods for trading¹⁸.

While the Smith-Pocahontas incident represented the chief's most dramatic attempt to bring the colonizers under his control, English officials, for their part, also planned a grand display to impress their sovereignty upon the native leaders. According to Jeffrey L. Hantman, professor of Anthropology and Archeology at Arizona State University, in 1608 the Virginia Company sent for Powhatan requesting his attendance at Jamestown where he would be honored and presented gifts by way of Captain Christopher Newport. These gifts included clothing, furniture, items for trading, and a crown. Newport planned to have Powhatan travel to Jamestown to receive his gifts in a grand coronation ceremony that would have made the chief, in English minds at least, a subordinate prince to King James I. Powhatan's objection to the English plan was made well known by the chief and when Smith requested his presence at Jamestown, Powhatan objected disdainfully. In Smith's account of the incident he reportedly exclaimed, "If your king have sent me presents, I also am a king, and this is my land," he later replied, and added perceptively to English intent, "Your father [Newport] is come to me, not I to him; nor yet to your fort; neither will I bite at such a baite¹⁹."

Not only did Powhatan spoil the colonists' plans to have the ceremony take place on their own province, but he also refused to kneel to receive his crown. Smith later blamed the delay on the native's ignorance of proper European protocol, but Smith never seems to have considered

18 Mossiker, *Pocahontas*, 38.

19 Jeffrey L. Hantman, "Between Powhatan and Quirank: Reconstructing Culture and History in the Context of Jamestown," *American Anthropologist* 92, no. 3 (2002): 678-679, accessed September 22, 2010, <http://www.jstor.org/stable/680342>.

that perhaps Powhatan simply would not bow himself before opposing leaders to whom he still felt superior or at least equal. Assuredly, the two English captains were glad to have the ordeal finished. However, Hantman cleverly points out that,

"Powhatan still had one more act to play out. Having reluctantly agreed to the reception of the gifts, and after having fitted himself in English apparel, to congratulate the kindness of the English, he gave his old shoes and his mantle to Captain Newport. Smith may have felt that this gesture represented a simple act of reciprocal exchange, but even if so, it indicated that Powhatan did not view his position in the ceremony as that of a subordinate. Perhaps however, he gave his clothes to Newport in an attempt to mock the English presumption in the affair. In any respect, Powhatan was not as simple-minded as some English observers seemed to imply²⁰."

This interpretation of these early occurrences between the English and Powhatan clearly demonstrates the multiplicity of explications regarding such well-documented events as those described in the historical accounts of the early English settlers and the Native Americans. Alternating attempts between the two cultures to impress their sovereignty upon one another reveal, not only the differences between the two cultures and their ceremonial rituals, but also solidifies the fact that the Native Americans were just as intent on procuring for themselves a foundation of power amongst the Jamestown settlers. In this particular instance, differing perspectives clearly illustrate that the Powhatans were not passive observers of English colonization, nor were they merely hostile opponents reacting to a perceived intrusion. Rather, Powhatan and his people had their own sets of priorities, preconceptions, plans, and motivations²¹. Their personal and imperial objectives served to be one of the main contributors in guiding the natives in their relations with the European colonists, which in turn contributed to the course of events in the later development of the English colonies.

As Stephen Greenblatt proposes in his essay on culture, that as "culture functions as a structure of limits, it also functions as the regulator

20 Hantman, "Between Powhatan and Quirank," 679.

21 Hantman, "Between Powhatan and Quirank," 679.

and guarantor of movement. Through the structure of improvisation, experiment, and exchange, new cultural boundaries can be established to accommodate additional participants within a given culture²²." Within this established cultural framework of Indian proactivity, it can be rationalized that Powhatan and his people made conscious decisions about what aspects of English civilization, or how much of it to adopt and what to reject. They were neither passive nor submissive to the English settlers, but rather a product of mobility and enterprise. Subsequent hostilities between the two cultures would occur later in Virginia as Hantman points out "due in large to the English advances which exceeded the balance in relationship the Indians were prepared to accommodate²³."

Perhaps the question remains as to why the Indians would have initiated contact with "foreign intruders" in the first place. Why would they attempt to establish loyal relations with colonists in place of imposing a dominant force over them? In order to reiterate what has been summarized previously, by examining the social agenda of the Powhatans it can be believed that chief Powhatan desired control over all neighboring trade relations, including those relations with colonizers. He saw the English as a valuable asset to his kingdom and desired to place himself at the top of the hierarchal chain over the inhabitants of the all the land. As Puglisi argued, Powhatan was already undertaking this process before the English had arrived, and as record indicates, his endeavors in establishing his empire over all the surrounding territories of the eastern region were coming to fruition²⁴.

The English did not compel the natives to trade with them, nor did they introduce a practice that was completely foreign to them. The natives of the land were no strangers to a barter system of economy before the arrival of the Europeans. To illustrate their progress and independence it seems that the natives could have well turned away the settlers of Jamestown, kept their food and provisions from them, and let the settlers starve by refusing to trade. However, the agenda of chief Powhatan was not to be inaccessible or passive in relationship to neighboring

22 Greenblatt, "Culture," 229.

23 Hantman, "Between Powhatan and Quirank," 680.

24 Puglisi, "Clash of Cultures," 99.

communities; rather, he saw the colonists as a potential benefit to his society and desired to exploit their resources in order to aid his imperial designs.

Countless aspects of European-Native American relations could be similarly discussed in various levels of detail. What becomes fundamental in the discussion of inter-cultural relationships is the recognition of the impact and importance multiple perspectives have in gaining a wider perspective of the full landscape history has to offer. In this case, Native American enterprise and their relation to English colonists should not be viewed with passive observation. As the ethnohistorical perspective suggests, discussing topics in American history requires sensitivity to both the cultural integrity of the decisions made by groups of individuals such as the Native Americans, as well as an understanding to the "real" long-lasting effects of their actions. These well-known and often repeated events in early Virginia history show that in many instances of inter-cultural relations, multiple perspectives and agendas exist; and while most are worth sharing, the fullest context and understanding comes in recognizing their mutual, but not necessarily parallel, interaction.

Biographical Notes

Jeffrey Davis graduated from Utah Valley University in the fall of 2010 as an English Major with an emphasis in literary studies. Currently, he is working for Ski Utah's marketing department as an assistant director for the company's "5th and 6th grade passport program." Additionally, Jeff enjoys spending his free time working with young athletes as a hitting and outfield instructor for the Olympus High School Baseball team. In the near future, Jeff anticipates attending law school and becoming a successful participant in the legal setting.

THE BACKBONE OF SUCCESS: THE CREW OF CAPTAIN COOK'S THIRD VOYAGE OF DISCOVERY

(An Excerpt)

Tyler Mower

People yearn to know what lies over the hill, around the next bend or beyond the horizon. Inquiry leads to exploration. Whether by sea, land or more recently, air and space, exploration has led to great discoveries in all fields of study. Expeditions of any kind, both those conducted in the past and present, require brave personnel to face the trials, dangers and roadblocks that constantly confront those who venture into the unknown. Such was the case in the mid-eighteenth century, as voyages of discovery were dispatched across the vast oceans to explore the far reaches of the world. One of the most well known explorers of the eighteenth-century was Captain James Cook (October 27, 1729 – February 14, 1779), who commanded three successful expeditions throughout the Pacific between 1768 and 1779.

The three voyages that Cook commanded filled in the map of the world, which brought an end to significant sea exploration for the discovery and mapping of coastal land throughout the North and South Pacific. Due to Captain Cook's great leadership and navigational skills, along with the work of scientists on the expeditions, his voyages are viewed as some of the greatest explorations of all time. However, without the assistance and constant hard work of the crewmembers Cook's voyages would not have been successful. The crew of Captain Cook's third voyage guaranteed the success of the expedition, because of their devotion to exploration, skillfully executed duties on and off the ships, and their ability to repair all parts of the ships.

This paper will focus solely on the crews of the third voyage, on board the ships HMS Resolution and HMS Discovery. Artistic renditions of the duties of the crews are used to depict aspects of the crew's work that are not described in the officer's journals. A more complete understanding of the crew's tasks is therefore gained when the artwork is accompanied with the explanations given in the journals.¹

DEDICATED TO EXPLORATION

A natural desire of mankind is to explore and see new things. The crew of Captain Cook's third voyage easily filled such a desire when they arrived at foreign islands or coasts. One of the most important aspects associated with Cook's exploration was observation of the new things that were encountered. Aside from the manual labor that enabled the voyage to arrive at new places, the crew also participated in observations that helped gather information about the far reaches of the world. Though the crewmembers were not the ones in charge of making official observations they assisted in the endeavor. Therefore they participated, though unofficially, since they were not credited for observations of the discoveries that were so eagerly desired by the people in Europe.²

After a voyage was completed, the scientists and officer's journals were compiled and published. Some of the published observations had been made by crewmembers as they went about fulfilling the orders that had been given them. Their observations enabled the scientists and officers to gain a better overall knowledge of the places where they had stopped. One instance occurred on December 28, 1776. After anchoring at Kerguelen Island, located in the South Indian Ocean, "parties were sent out to procure what vegetables the island produced, by way of refreshment; but none were found for culinary purposes, except a kind of wild cabbage."³ Though the parties, which consisted of crewmen not detained by other duties, were only seeking plants that could be used for food, they confirmed only one kind of edible plant existed in the area. This knowledge was recorded by the officers and put in the notes

This is because depictions of everyday routines that were commonplace in the eighteenth century, were less important than the new and exotic islands, people, plants and animals that were found. However, the few pieces of art available do show the importance of the crews work. John Weber, Sydney Parkinson and William Hodges were the main artists of Cook's voyages. Alexander Buchan, Henry Roberts, John Cleveley and William Bayly were other members of the voyages who produced important artwork depicting the voyages.

2 Geoffrey Badger's book explains how fast publications of Cook's voyages sold out and how many reprints were made to fill the popular demand for the information gathered about the far reaches of the world. (Geoffrey Badger, *The Explorers of the Pacific*, [Kenthurst, Australia: Kangaroo Press, 1996], 7-8).

3 John Rickman, *Journal of Captain Cook's Last Voyage to the Pacific Ocean*, London: 1781, (Ann Arbo, University Microfilms, 1966), 38.

concerning the island. Since the officers and scientists recorded the findings of the crew, they got the credit for such discoveries when their journals, charts and records were published. Without the discoveries and observations made by the crew, the officers would not have acquired as much information about the locations where they landed and therefore their journals and charts would have been lacking. Just as the crews were denied the credit they deserved for the discoveries they made and reported to their officers, they were ignored when it came to the one thing they understood best, sailing.

Many sailors were just as knowledgeable as the officers about how to sail the ship, what direction should be taken and how fast they should travel. Nevertheless, mid-eighteenth century social status was a great hindrance for tapping into the knowledge of the common crew. While sailing north from New Zealand towards the Cook Islands, John Rickman though an officer himself, recognized the folly of the officers in not using the vast knowledge of the sailors on board the ships:

There were some on board who disapproved of the course we steered from the beginning, foreseeing, that by going so fast to the northward, we should fall too suddenly into the trade winds, especially if we should be met by an easterly wind before we approached the Tropic. Among the seamen on board a king's ship, there are always some expert navigators, whose judgment, ripened by experience, is much to be depended upon; but the misfortune is, that these men are never consulted, nor do they even dare so much as to whisper their opinions to their superior officer. (Rickman 1966, 78)

The decision to take an indirect course to the Tahitian Islands, by first going to the Cook Islands was Captain Cook's. This was a decision that almost caused the voyage to perish. Rickman wrote "We had now been just sixty days in a passage, which in a direct course would not have exceeded ten, and had been exposed to the severest trials, owing to some fatality in pursuing a course which there was not a seaman on board that did not disapprove."⁴ This was not the only time in which the crew disapproved of the decisions of their superior officer.

Another instance occurred on their return to Hawaii. When

George Gilbert wrote about the joy they received upon returning to the Hawaiian Islands for want of a rest and opportunity to procure much needed provisions,⁵ Cook ordered the ships to tack on and off the large island of Hawaii for over a month, as they made their way around the island. At no other time throughout the voyage was there greater discord among the crew than during that month of tacking. Rickman wrote, "Heavy complaints again prevailed among the ship's company. Their sufferings, from incessant labour and scanty provisions, were grown confessedly grievous." Even Rickman, an officer himself, recognized the complaints of the crew were not without reason. The men needed a rest from the labors of sailing. They wanted to get provisions to fill their bellies. Tacking on and off an island that contained the provisions they needed and offered the chance to stand on stable ground was too much to bear and caused discord among the crew with their officers. Despite the deaf ear of the officers to the crewmen, the crew fulfilled their tasks quickly and with expert skill throughout the entire voyage. This is made evident by the daily tasks that they performed while sailing the ship.

DUTIES WHILE SAILING

Tony Horwitz, an acclaimed journalist and author, described the precision that is required to properly handle sails on a ship similar to the *Resolution*.⁶ In order to work the sails effectively to catch the wind they had to "ease on one side of the ship so [they could] haul on the other. Haul or ease away, either way the order is 'Haul away!'"⁷ He continued, "If we didn't clutch and release ropes at exactly the same moment, we were quickly pancaked, like losers at a tug of war match."⁸ Speaking of

5 George Gilbert, *Captain Cook's Final Voyage: The Journal of Midshipman George Gilbert*, ed. Christine Homes (Honolulu: The University Press of Hawaii, 1982), 99.

6 Tony Horwitz's book "Blue Latitudes" chronicles the retracing of Cook's voyages in a replica of the HMS *Endeavour*, the ship Cook used on his first voyage. Though Tony Horwitz is not a sailor by profession, his experiences described in his book help fill in some of the most common tasks that the crew on Cook's third voyage performed on a daily basis.

7 Horwitz, 18.

8 Ibid

the process of rope working, Horwitz explained, "We yanked another rope, and then another, maneuvering some small part of the impossibly complex rigging. The horizontal yards shifted along the masts, like rotating crucifixes. The first of the ship's twenty-eight sails fluttered from the bowsprit. Rope rained down all around us, twenty miles of rope in all."⁹ Tugging, pulling, tying, lashing and climbing are the major action in sailing a ship. Horwitz found the work to be grueling, yet exhilarating, dangerous and challenging. These feelings are in part explained in his first climb to the top yard on one of the masts. "Earlier in the day, in full light and calm seas, the much lower and larger fighting top had seemed a relatively secure haven. Now, at dusk, in a brisk wind, this tiny way station felt horribly precarious. Height radically amplifies a ship's motion; a roll that tilts the deck a foot will move the tip of the mast five times as much."¹⁰ Though these descriptions of what it is like to be a sailor comes from a non-sailor, they do help better understand the kind of work the crew of Captain Cook faced every shift they worked while at sea, whether it was day, night, sunny or stormy.

In clear breezy weather the ships cruised ahead delightfully, but when optimal weather turned and threatened to destroy the ships all hands were called to man a position to secure the ships. A dramatized depiction of Cook's ship off the coast of New Zealand helps show the extreme danger that befell the ships due to the powerful storms of the Pacific.¹¹

9 Ibid., 19.

10 Ibid., 26.

11 www.nmm.ac.uk/collections/explore/object.cfm?ID=BHC1906 (accessed November 2, 2010).

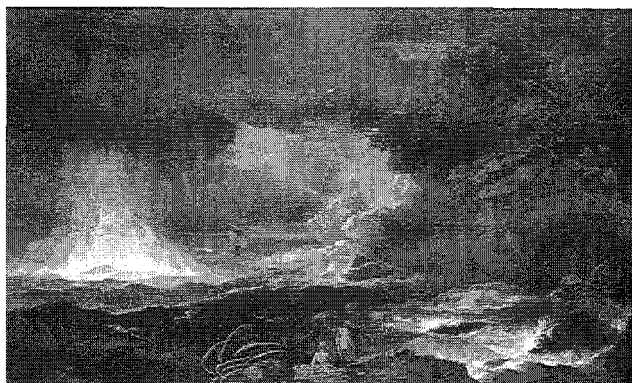


Figure 1. William Hodges, *A View of Cape Stephens in Cook's Straits with Waterspout*, 1776, 1359 x 1930 mm, National Maritime Museum, Greenwich, London.

While sailing about the Tongan islands on July 30, 1777 the ships were overtaken by a severe storm. John Rickman not only recorded the dangerous situation the ships were in, but wrote one of the greatest tributes in honor of the expertise of the crews. He wrote:

A sudden squall carried away our main-top and top-gallant mast, split our main-sail, and carried away the jeb. It is astonishing to see with what spirit and alacrity English sailors exert themselves on such occasions. Amidst a storm, when it is almost impossible for a landsman to trust himself upon deck, our sailors mounted aloft, and with incredible rapidity cleared away the wreck, by which they preserved the ship. (Rickman 1966, 128)

Clearing away wreckage, tangled masts, rigging, and sails in the middle of a storm to preserve the ships, was a feat of amazing dexterity. Storms were a constant threat throughout the voyage and the call to furl the sails was a routine that was well oiled and efficient to the point that it saved the ships on various occasions. Three days later on the third of August Rickman wrote, "We met with a storm...which required the utmost exertion of our strength to encounter; every hand in the ship was employed, some at the

pumps, and others in handling the sails, which was a work of the greatest danger, yet happily accomplished with out an accident.”¹² Even though the crews were expert at what they did, accidents did occur, sometimes ending in fatality.

On their return to the Hawaiian islands, after surveying the Alaskan coast Captain Cook wrote, “Captain Clerke came on board and informed me of a melancholy accident that happened on board his Ship...the Main tack gave way, killed one man out right and wounded the Boatswain and two or three more.”¹³ Ropes and cords used to secure the ships were both apt to loosen and rot with time. Accidents did occur, but only a few are mentioned in the various journals of the voyage.¹⁴ One way to keep the ships safer was to keep them clean. Cleanliness removed hazardous clutter and kept the ships from being vessels of disease. One of the most important forms of cleanliness on the ships was personal hygiene.

Cleanliness was an important aspect on board Cook’s voyages and it was the crew that executed the tasks to clean the ships. This included both the cleaning of the ship and personal hygiene. Sinclair Hitchings, the author of the introduction to John Ledyard’s journal, wrote of Cook, “He insisted on cleanliness, though rats and cockroaches flourished in spite of his rules for cleaning the ships. Personal cleanliness was enforced.”¹⁵ Cleanliness was to be conducted both on the ships and on land. One of the common forms of personal cleanliness was bathing.

Though I have not come across a source mentioning bathing on ship, a sketch by Geoffrey C. Ingleton (1908-1998), who specialized in depictions of ships, explorations, and life on ships, depicts the festivities of crossing the equator on Cook’s third voyage.¹⁶

12 Rickman, 130.

13 A. Grenfell Price, *The Explorations of Captain James Cook in the Pacific: As Told By Selections of His Own Journals 1768-1779*. (New York: Dover Publications, 1971), 249.

14 Other accidents mentioned include, two men who lost their lives, due to falling overboard (Edwards 2003, 450) and an anchor lost due to not securing its’ cable. These incidents and the above-mentioned accident are connected with sailing the ship.

15 John Ledyard, *John Ledyard’s Journal of Captain Cook’s Last Voyage*, (Harford: Nathaniel Patten, 1783), ed. James Kenneth Munford. (Cornvallis, Oregon: Oregon State University Press, 1963), XXV.

16 Price, 197.

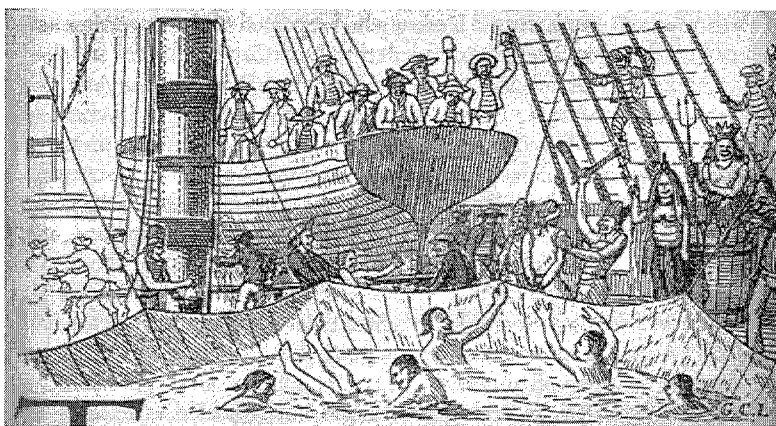


Figure 2. Geoffrey C. Ingleton, *Crossing the Line; King Neptune's Court*.

A sail placed on deck, hoisted up to make it bowl shape and filled with water would provide a facility for bathing. Though this is a modern rendition of the festivities that were held while crossing the equator, it is possible that a small sail was used for bathing. Though bathing on the ship is not referenced in the journals, Cooks' strict instructions and orders for cleanliness did include frequent bathing on land. Therefore, it is not unlikely that bathing also occurred on the ships, especially since they were often on the open ocean for weeks on end. In reference to bathing on land, George Gilbert wrote about a pool of water on one of the Tahitian Islands, "where all of us frequently went for that purpose."¹⁷ Personal hygiene was a great part of keeping the crew cleaner and therefore healthier.

A healthier crew was able to sustain the workload that was required of them. The duties performed by the crew at sea, their ability to manage the ships in a myriad of situations and the standard of cleanliness, enabled the voyage to continue and progress from island to island and along the vast expanse of Alaskan and Siberian coasts. Just as the duties on the ship were essential to success, so were the duties performed on

land, which provided the necessities for life on the ships while at sea.

DUTIES ON LAND

Stockpiling water and provisions were essential tasks in order to maintain life on the ships. The great importance of these tasks was such that, if not completed the men perished and the voyage failed. If such had been the case, Cook's third voyage would have been remembered as the lost expedition. Land provided the opportunity to gather water, wood, and provisions for the crew in sufficient supply to hopefully last to their next destination. Camps were erected to provide a stable location for the caring of the sick, a safe site for repairs, and an area to regulate trade. On land, depending upon the necessities and condition of the ships, all hands were usually busy with work, rather than on their one in three shift schedule.¹⁸ One of the most important jobs was the replenishing of the water supply.

Water on board the ships was held in large casks. Geoffrey Badger explained how the water on board ships was used and why it was required to routinely replenish the supply. "Fresh water was carried in wooden casks, and rationed at three quarts (3.41litres) a day for cooking, drinking and washing. On a long voyage this ration was steadily decreased, and after a few weeks at sea the water had developed a bad smell and taste."¹⁹ The worst-case scenario was if the water ran out, nevertheless both the Resolution and Discovery had "coppers fitted with Irving's [water distilling] apparatus and Lieut Orsbridge's machine for rendering stinking water sweet."²⁰ Though this equipment came in handy when the water supply had been extinguished they were not considered efficient to what was needed.

Captain Cook wrote of the distillation devices and described the, time-consuming job required to get some drinkable water. "In order to save our Water I ordered the still to be kept at work from 6 in the Morning

18 see Ledyard, XXV and James Cook, "The Method Taken for Preserving the Health of the Crew of His Majesty's Ship the Resolution during Her Late Voyage Round the World," *Philosophical Transactions of the Royal Society of London*, Vol. 66 (1776). The Royal Society, <http://www.jstor.org/stable/106286> (accessed November 11, 2010), 404.

19 Badger, 21.

20 Richard Hough, *Captain James Cook*, (New York: W. W. Norton & Company, 1995), 274.

to four in the after noon, during which time we procured from 13 to 16 gallons of fresh Water: There has been lately made some improvement as they are pleased to call it, to this Machine, which in my opinion is much for the worse.”²¹ John Rickman described the insufficient effect of the distillers, during the long stretch at sea between New Zealand and the Friendly Islands when Captain Cook had ordered the ships to take an alternate route. “The alarming situation of the Resolution, for want of provisions and water for the life stock; that they were obliged to kill a great part of their sheep, hogs and goats for the use of the crew; not having a sufficient quantity of water to keep them alive.”²² This describes the serious situation on board, though these penned lines from Rickman focus on the animals it shows that needed water was given, rightfully so, to the crew to keep them alive, at the cost of losing many of the livestock. The fault was not on the crew for not gathering enough water and provisions to last the duration out on the open sea, but it does show the great distress that could come by not having a sufficient supply of water and provisions.

The first challenge of replenishing the fresh water supply was getting the casks of water from the ships to the shore and then to the location where fresh water could be procured. In late June 1778, near Unalaska Island, one of the first islands west of Alaska in the Aleutian Islands, William Ellis, the Surgeons Mate on board the Discovery wrote, “Early the next morning, all hands were called, the empty casks go out of the hold, the boats hoisted out, and a large party of men sent on shore to water.”²³ Each boat held eight to ten men. Casks when empty floated and could be tied together and pulled behind the boat to shore, if the surf

21 A ten-hour shift of work only produced enough water for a full days ration for 13 to 16 men, when there were 112 men on the Resolution and 80 on the Discovery. Though the distillation machine allowed them to get much needed water it was not sufficient to rely upon to service the entire crew. James Cook, *James Cook the Journals*. Edited by Philip Edwards. New York: Penguin Books, 2003), 460.

22 Rickman, 80.

23 William Ellis, *An Authentic Narrative of A Voyage Performed By Captain Cook and Captain Clerke: In His Majesty's Ships Resolution and Discovery, During the Years 1776, 1777, 1778, 1779 and 1780, in Search of North-West Passage Between the Continents of Asia and Ameri Vol. I.* (Nabu Public Domain Reprints. London: 1783), 285.

was not too rough. If the surf were threatening the casks would have to be placed in the boats and rowed to shore. Many trips were required to get all of the watering party and the casks to the shore.

Once on shore the casks had to be transported to where fresh water could be acquired. Many times this was close to the shore. Sometimes it was miles inland to a sufficient watering location. While at the Tongan islands, Cook wrote of one watering hole that was used, "I was conducted to a small Pool that was tolerable and had it cleaned out."²⁴ After a watering location was approved and cleaned, if necessary, the filling of the casks began.

At their first landing at Kauai, Hawaii, Captain Cook had arranged all the necessities to fill the water casks. Cook wrote, "We met with no obstruction in watering on the contrary the Natives assisted our people to roll the casks to and from the pond."²⁵ By rolling the casks, one man would be able to roll an empty cask and perhaps two to role a full cask, especially when rolling up or down a hill. A painting by Alexander Buchan depicts the watering party at Tierra del Fuego, on Cook's first voyage. This clearly shows six casks of water. A sailor is rolling one cask, while two other sailors gather water in pails from a nearby stream, which is then poured into the casks.



Figure 3. Alexander Buchan, *The Watering Place in the Bay of Good Success*, January 1769, 248 x 337 mm, British Library.

24 . Edwards, 478.

25 Price, 218.

This painting helps fill in some aspects of filling water casks that is not explained by the journals, such as filling the casks with pails of water where casks cannot be immersed in the water. It also backs up Cook's description of the men rolling casks.

Another sketch, by Captain Cook while at Tolaga Bay, New Zealand, on the first voyage depicts sailors floating casks to the shore and then repairing or opening the casks to fill them with water. Again the artwork not only gives a visual of how the crew went about their tasks, but it also fills in some of the process of filling the casks that are not explained in the journals. This sketch confirms the use of floating casks to shore.²⁶

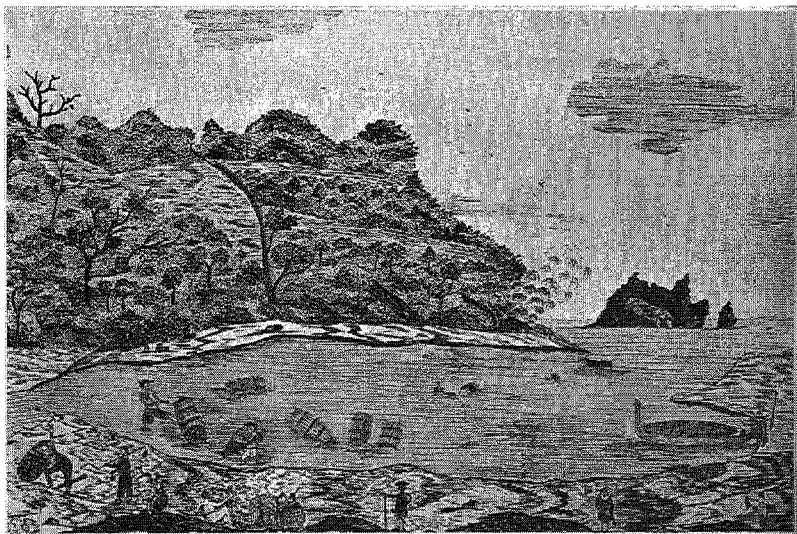


Figure 4. James Cook rendition of Sydney Parkinson's drawing, Watering Place in Tolaga Bay.

On the third voyage, casks from two ships had to be transported to

26 William Ellis, *View from Point Venus*, in Rex and Thea Rienits, *The Voyages of Captain Cook*, (New York: Paul Hamlyn, 1970), 42.

and from the ships and filled. Cook wrote of the importance of always renewing the supply of water, "I never failed to take in water wherever it was to be procured, even when we did not seem to want it."²⁷

Following the skirmish at Kealakekue Bay, on the big island of Hawaii, where Captain Cook along with five other crewmembers were killed, the ships went to the island of Kauai in hopes they would be able to finish their water replenishing needs unmolested by the natives. George Gilbert, mentioned the time it took to fully replenish the water supply, "In three or four days we completed our water, which was exceeding good, without any further disturbance with the Natives."²⁸ The time to remove the casks from the ships to the shore, roll the casks to the watering location, fill them with water, roll them back to the shore and return them to the ships greatly depended on the distance that had to be covered, the amount of men working on the project and if they were allowed to work without any disturbances from the natives. Without fresh water everyone would perish with dehydration, therefore completely restocking the water supply with good water was a life saving task. Time was of the essence and watering was only one of many tasks that had to be completed before the ships could set sail.

The second most important duty on land was replenishing the food stores. When gathering provisions the crews went about using the easiest methods possible. These methods included picking fruit or vegetables by hand, using clubs or guns for hunting and hooks for fishing. Sometimes the most difficult part of gathering provisions was finding them. William Ellis described that the crews had prepared to hunt only to be disappointed by the lack of game at Nootka Sound Vancouver Island in April, 1778. "We found ourselves not a little disappointed at the very scanty supply of game this place afforded. Before our arrival, every one was employed in getting his fowling piece in order, and forming bullets, as we fully expected to meet with plenty of hares and deer; but, so far

27 Though in wording Cook gave himself the recognition of resupplying the water, it was the crew that fulfilled this most necessary duty. Cook, *The Method Taken for Preserving the Health*, 405.

28 It is important to note that much of the watering had already been completed at Kealakekue Bay and yet it still took three to four days to finish the task on the island of Kauai. Gilbert, 119.

from that, we scarce saw a single duck.”²⁹ On the other hand sometimes they met with easy success in their hunt.

While at Kerguelen Island in the southern Indian Ocean in December 1776, John Webber, the official artist on the voyage, drew a depiction of the bay where the ships anchored. The sketch shows how easily the crew hunted penguins. One sailor is shown walking amongst a group of penguins, hitting them with a stick and stacking them in a pile.³⁰

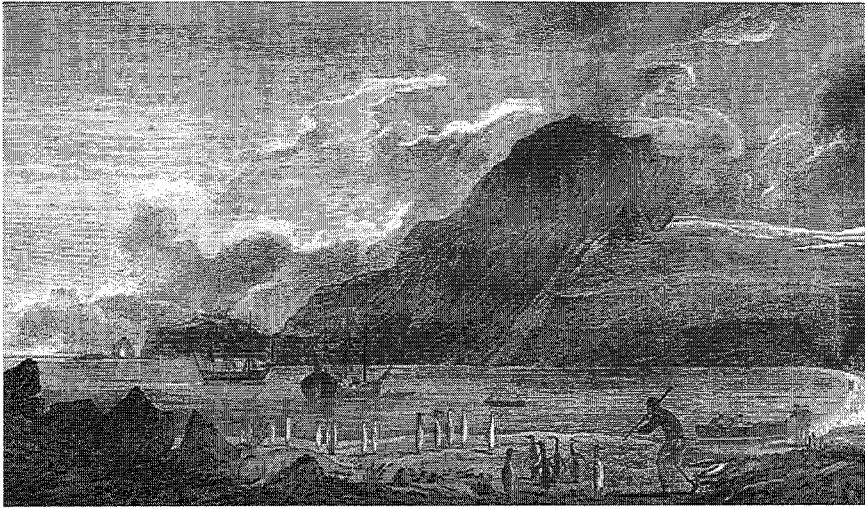


Figure 5. John Webber, *A View of Christmas Harbour in Kerguelen's Land*, December 25-30 1776, Captain Cook Birthplace Museum.

An explanation of the easy hunting of penguins and seals is given by Cook, although it was written on his second voyage, “After dinner hoisted out three boats and landed with a large party of men, some to kill seals, others to catch or kill birds fish or what came in our way.”³¹ He continues, “They were all so tame, or rather so stupid as to suffer us to come so near as to knock them down with a stick but the large ones we

29 Ellis 196.

30 <http://www.captcook-ne.co.uk/ccne/gallery/gallery5.htm> (accessed November 8, 2010).

31 Price, 181.

shot as it was rather dangerous to go near them.” With such easy prey, Cook replied, “In the evening we returned on board with our boats well Laden with one thing or a nother.” Since many of the places where the crews went hunting were uninhabited by humans the wildlife did not flee at the presence of the crew, thus offering them the opportunity to gather a large supply of meat for the voyage.

Stockpiling provisions and water were essential tasks in order to maintain life on the ships while at sea. The crew provided the manual labor necessary to complete these tasks, thus enabling the continuance of the voyage. Even though the crews were able to skillfully handle the sailing of the ship and carry out their duties on land, all of which greatly increased the success of the voyage, their ability to repair the ships in a variety of situations guaranteed the success of the voyage.

REPAIRING THE SHIPS

For three years the Resolution and Discovery and their crews were much like the Apollo lunar landing expeditions, far from any modern help or assistance. Their own knowledge and skill were the only things that could help them when dangers or damages occurred. John Ledyard wrote about the dangerous situation the ships were in, north of the Bearing Strait in September 1778. “We had blowing weather, which rendered our situation among the ice dangerous. The ships too were in bad condition, the winter approaching, and the distance from any known place of refreshment very great.”³² John Rickman further explained their situation, due to being in an uncharted area, “We were now so far advanced to the northward and eastward as to be far beyond the limits of European Geography, and to have reached that void space in our maps.”³³ After leaving the Cape of Good Hope in December 1776, the ships did not reach a “modern” port, according to the European standards, until December 1779 at Macao on the south coast of China. Thus, for three full years all repairs had to be performed without the assistance of a real harbor. This was no small feat, because the ships were in constant threat from the dangers of nature and often showed the signs of such battering.

32 Ledyard, 88.

33 Rickman, 233.

One duty that was considered a first priority was the recovery of anchors.

Anchors are a very important part of the ships. Without the anchors, the currents and tides of the ocean drive ships at rest. Deprived of anchors ships cannot securely stop. Anchoring at an island or along a coast was necessary, because the duties of the crews shifted from sailing to gathering provisions and repairing damaged parts. In order to complete their duties on land the crew could not be detained, by managing a ship without the proper anchors. Therefore it was requisite that anchors were properly handled. Anchors are practically indestructible, but the cables attached to the anchors sometimes broke. This left an anchor on the floor of an inlet or bay. If an anchor was lost it was necessary to retrieve it.

There were a couple ways the crew went about recovering an anchor. William Ellis described that an anchor could not simply be left behind and anchor recovery was important enough to require joint efforts by most of the crew. He wrote, "Most of the boats and people were employed the next morning in sweeping for the anchor, which was too valuable an article to be lost."³⁴ Along the Alaskan coast Ellis wrote about two different ways to recover an anchor, "At eight captain Cook sent for the Discovery's launch to assist the Resolution's boats in recovering the anchor. They had nearly hoisted it in last night by the buoy-rope, which unluckily broke. However, at seven in the evening, they were fortunate enough to get the clinch of the hawser over one of the flukes, by which means they secured it."³⁵ Recovering an anchor was no easy task and the crews often spent many hours in the effort of trying to retrieve the anchor. John Ledyard explained that after a fruitless attempt to recover an anchor, "we spent the day in sweeping for our anchor which we finally recovered by the exertions of a mad-hardy Tar, who dived to the freezing bottom and hooked a grappling to the ring. The anchor was in five fathom water."³⁶ Of the handful of anchors that needed to be recovered only one was never retrieved, which demonstrates the skill of the crews. This ultimately saved the ships, because they were able to safely anchor,

34 Ellis, 61.

35 Ellis, 306-307.

36 Here is one of only a few instances where one of the crew is named, at least by his nickname, for performing an important task. Mad-hardy Tar dove thirty feet to secure the much-needed anchor. Ledyard, 85.

allowing the ships to stop when needed. Another repair that preserved the voyages were repairs of the hull.

One of the amazing accomplishments of the crews was their ability to fix, or at least stop leaks, while at sea. William Ellis described a serious leak on the *Resolution*, “but every one exerting themselves, it was fortunately discovered and stopped.”³⁷ Another incident, after a strong storm and a night of pumping, the ships hove-to and the both ships carpenters worked to stop the leaks.³⁸ Even though at times the crews were able to hold back the onslaught of water or even stop leaks while at sea, usually the damage required repairs that had to be performed on a beach. Breaches in the hull were usually below the water line. Due to this and depending on the extent of the damage, the ships would have to be beached and careened. This enabled the damage to be repaired out of the water. An image drawn by Sydney Parkinson, gives a good depiction of what it was like to get a ship onto a beach in order to fix the hull.³⁹

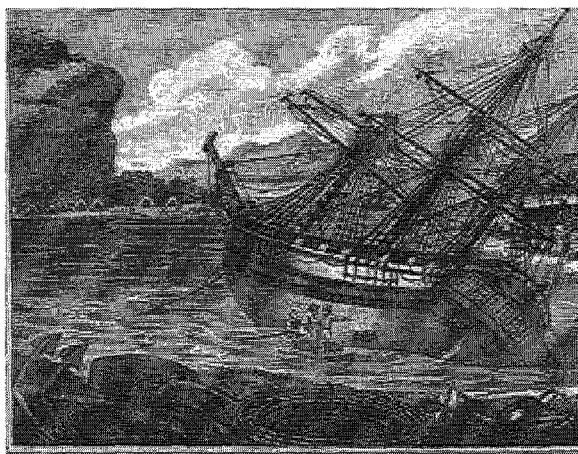


Figure 6. Sydney Parkinson, *Repairing the Endeavour*, 1770, National Maritime Museum, London.

37 Ellis, 231.

38 Rickman, 285.

39 [http://www.portcities.org.uk/london/server/show/conMediaFile.4024/Repairing-of-Captain-Cooks-ship-in-Endeavour-River-\(Cooks-first-voyage\).html](http://www.portcities.org.uk/london/server/show/conMediaFile.4024/Repairing-of-Captain-Cooks-ship-in-Endeavour-River-(Cooks-first-voyage).html) (accessed October 26, 2010).

This is a depiction of the HMS Endeavour on Cook's first voyage, after running aground on the Great Barrier Reef, similar circumstances required both the Resolution and Discovery to be beached on Cook's third voyage as well. This piece of art is important, because it shows many of the anchors needed to properly hold the ship in place and heel it onto its side, so that the damaged portion of the hull can be worked on out of the water. It also shows the damage sustained in the hull.

George Gilbert, explained some of the process of fixing the hull of the Resolution, while at Prince William Sound off the coast of Alaska:

The weather being moderate we heeled the ship to port as much as possible to examine the leak on the starboard buttock...which we were lucky enough to bring above water, it being close below the wale and occasioned by some of the seems being very open and the oakum quite rotten and great part of it got out. In two days we repaired this defect being obliged to put two and half inch rope along the seams which were too wide for caulking. (Gilberts 1982,77)

Gilbert mentioned the innovative repairs made by the sailors, by using rope to fill the gaps of the seams. They did not have the "modern" equipment needed to fully repair the ship. This repair to the hull was made in May 1778. The ship sailed for another two years and four months before returning to England.

In August 1779, Gilbert again explains the repairs made to the hull, this time of the Discovery, on account of being in the ice fields along the Siberian coast. "We heeled her to starboard, and on examining it found about two feet of the end of a plank close below the wale, strove right in...This was not the only stroke she received for the other bow was very much damaged; the carpenters of both ships immediately set about repairing them which they completed in eight or ten days."⁴⁰ Of course the Resolution did not come out of the ice unscathed. Explaining the repairs Gilbert wrote, the Resolution "was obliged to be lightened Forwards and hauled with her head upon the Beach at high water to have it repaired; which was done in a few days, and then she hove off again."⁴¹

40 Gilbert, 147.

41 Ibid., 147.

Repairs of the hulls saved the ships and were the most important repairs on the voyage. Not only did the crews keep the ships from sinking, by pumping and bailing water giving them enough time to get to shore to fix the leaks, but they were also able to heel the ships and repair the damaged hulls, so they could continue sailing. Without the efforts of the crews at these critical moments the ships would have sunk, thus ending the voyage and causing all the knowledge gained from the expedition to sink to the bottom of the ocean.

Repairs were performed by the crew, both at sea when possible and on land. Though the anchors and hulls were the most important repairs, which allowed the ships to properly and safely anchor and remain afloat, a variety of other repairs kept the ships in good enough condition to remain sea worthy. Some of those tasks included repairing and strengthening ropes and cords, mending shredded sails and repairing or replacing broken masts. Without these other repairs the ships ability to sail would have been greatly reduced or rendered incapable. Describing these other repairs, yet also commenting on how impressive the crew's ability to repair the ships was in places that did not have the commodity of a "modern" harbor John Rickman wrote:

The mast that was shattered in the head, and carried ashore to be repaired, was in a short time rendered more firm than ever; the sails that had been split, and were otherwise rendered unfit for further service, were replaced; the cordage carefully examined, the masts new rigged, and in short the whole repairs completed with more celerity and strength than could have been expected in a place where many conveniences were wanting." (Richman 1966, 150)

The crew of Captain Cook's third voyage saved the ships by the repairs they made, thus securing the success of the expedition.

CONCLUSION

The crew of Captain Cook's third voyage was essential for the success of the voyage. Without them the expedition would have failed. Their devotion to their everyday duties was the factor that kept the voyage progressing. Ultimately, the crew of Captain Cook's third voyage guaranteed the success of the expedition, because of their devotion to

exploration, skillfully executed duties on and off the ships, and their ability to repair all parts of the ships.

By fulfilling their daily duties they made important observations that helped gain more understanding about the foreign places they landed at. They skillfully managed the ship upon the vast Pacific Ocean and bravely faced the many dangers that were encountered. Just as the ships were the safe havens throughout the voyage for the crew, so to was the crew the caretakers of the ships. By their work the ships remained stocked with the ever-important water and provisions. Through their efforts the ships were repaired from the many damages they sustained. Without the labor of the crew, Cook's third voyage would have ended in tragedy and failed to fulfill the purpose of the voyage. The crew have long been overlooked and kept in the dark, it is time to recognize their great contribution to the success of one of the greatest explorers of all time.⁴²

42 This version of the article consists of portions of the full paper. To learn more about the crew of Captain Cook's third voyage and the variety of duties they performed that ensured the success of the expedition, see "The Backbone of Success: The Crew of Captain Cook's Third Voyage of Discovery," in the UVU Library digital catalog.

Tyler Mower

I am a senior at UVU and will graduate with a Bachelor's in History in April 2011. I have had the privilege of traveling throughout most of the United States and to seven foreign countries. Many of these travels gave me experiences with historical sites and my admiration for reading has led me to become a student of History. I began my undergraduate as a student of Earth Science and though I thoroughly enjoy the study of geology, I have found that it is the study of human history that intrigues me the most. The "golden age of exploration" from 1400 to 1800 is my passion. My goal is to get my Masters and PH.D in History and teach at a university.

