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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO (UNLIMITED JURISDICTION)

HASTINGS COLLEGE CONSERVATION
COMMITTEE, an unincorporated association of
alumni of Hastings College of the Law;
STEPHEN HASTINGS BREEZE, an individual;
STEPHANIE AZALEA BRACKEL, an
individual; CATHERINE TORSTENSON, an
individual; SCOTT HASTINGS BREEZE, an
individual; COLLETTE BREEZE MEYERS, an
individual; and COLIN HASTINGS BREEZE,
an individual,

Plaintiffs,

v.

STATE OF CALIFORNIA; DAVID FAIGMAN,
in his official capacity as Chancellor and Dean of

CASE NO. CGC-22-602149

**COLLEGE DEFENDANTS'
OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

[Declarations of Dean David Faigman
and Matthew S. Kahn and Request for
Judicial Notice filed concurrently]

HEARING:

Date: December 15, 2022

Time: 9:30 a.m.

Dept: 302

Judge: Hon. Richard B. Ulmer Jr.

Hastings College of the Law; SIMONA AGNOLUCCI, in her official capacity as chair of the Board of Directors of Hastings College of the Law; CARL ROBERTSON, in his official capacity as vice chair of the Board of Directors of Hastings College of the Law; SHASHIKALA DEB, in her official capacity as a director of Hastings College of the Law; MICHAEL EHRLICH, in his official capacity as a director of Hastings College of the Law; ANDREW GIACOMINI, in his official capacity as a director of Hastings College of the Law; ANDREW HOUSTON, in his official capacity as a director of Hastings College of the Law; CLAES LEWENHAUPT, in his official capacity as a director of Hastings College of the Law; MARY NOEL PEPYS, in her official capacity as a director of Hastings College of the Law; COURTNEY POWER, in her official capacity as a director of Hastings College of the Law; ALBERT ZECHER, in his official capacity as a director of Hastings College of the Law; and DOES 1-25, inclusive,

Defendants.

Action Filed: October 4, 2022
Trial Date: None set

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INTRODUCTION

Preliminary injunctions are extraordinary and rare, all the more so where parties seek to enjoin public officials from engaging in protected speech and petitioning activities. Here, Plaintiffs challenge the reasoned decisions of the Board of Directors of the UC Hastings College of the Law, which changed the College’s name in light of S.C. Hastings’s connection to violence against indigenous people, and of the Legislature, which passed AB 1936 to conform the Education Code to the new name. Plaintiffs’ claims defy settled precedent, and worse, they seek a prior restraint—the most blatant First Amendment violation known to law—to enjoin the College Defendants from ongoing protected speech on a matter of public concern. That makes this case an exceedingly poor fit for preliminary injunctive relief.

On the merits, Plaintiffs give the game away by failing to respond to extensive case law cited in the anti-SLAPP motion the College Defendants filed last month. Although Plaintiffs raise a Contracts Clause claim, the “agreement” on which they rely is a statute, and Plaintiffs ignore precedent holding that a statute creates contract rights only if it does so in unmistakable terms unlike anything in the act that created the College. They also disregard case law limiting the circumstances in which third parties can assert rights as intended beneficiaries of a contract and clear language in the act showing they have no such rights to assert here. Plaintiffs’ secondary claims fare no better. They claim AB 1936 is an *ex post facto* law and bill of attainder, but they don’t identify any criminal law applied retroactively or engage with the statute’s plainly nonpunitive purpose. And they raise an unprecedented claim, based on constitutional text repealed over a century ago, that the Legislature invaded the College’s constitutional autonomy by taking action that the College *specifically requested*. Plaintiffs can’t show even a remote likelihood of success, and that’s all the Court need consider before denying relief.

The balance of harms also leans sharply against an injunction. Plaintiffs act as if the College’s name is irrelevant to the school’s identity, relationships, and operations. In reality, the decision to rename the school was vital to express the school’s values and protect the school’s interests. Reversing the tide now—after the College has taken extensive steps to prepare the school and stakeholders for the change—would leave the College at a serious disadvantage in terms of its relationship with current and future students, collaboration with indigenous communities, engagement with the public, solicitation of contributions, marketing to students and employers, and petitioning for much-needed

1 funding. An injunction would also stifle the College’s constitutionally protected expression, preventing
2 it from using its name of choice and insisting that it operate under a name that many associate with
3 atrocities against indigenous people. And in the face of these many irreparable injuries, Plaintiffs offer
4 only the barest assertions of minimal harm on their part. The Court should deny Plaintiffs’ motion.

5 BACKGROUND

6 After serving as California’s first Chief Justice, S.C. Hastings became one of the state’s largest
7 landowners. (Faigman Decl., Ex. 1, at p. 3.) But his land had been occupied for centuries by indigenous
8 communities, including the Yuki People, and ultimately it fell victim to “cycles of violence” (*id.* at
9 pp. 3-4) that “virtually extinguished” the indigenous population (Faigman Decl., Ex. 7, at p. 2).

10 S.C. Hastings contributed to that tragic story. He hired H.L. Hall to manage his livestock and
11 kept Hall on the job even after learning Hall had committed “outrages” against indigenous people.
12 (Faigman Decl., Ex. 7, at pp. 3-4.) Hall abused that position of power, committing additional atrocities.
13 (*Id.* at p. 4.) Hastings was also “instrumental in creating and then supporting—financially and
14 politically”—a militia group, the Eel River Rangers, which committed “well-documented atrocities”
15 against indigenous communities in the Round Valley. (*Id.* at pp. 2-3.)

16 In 1878, Hastings donated \$100,000 to the State to start a law school (Faigman Decl., Ex. 2, at
17 p. 1). As he explained at the time, his “desire” was to “diffuse a knowledge of the great principles of
18 jurisprudence . . . among all classes of society.” (Kahn Decl., Ex. 5, at p. 342.)

19 The Legislature enacted a statute in 1878 to create the College. (Kahn Decl., Ex. 1 [the “1878
20 Act”].) The Act’s “object” was “to grant a perpetual annuity for the support and maintenance of [the]
21 College,” and to that end it provided that the State would fund the school from Hastings’s donation.
22 (*Id.*, §§ 8, 13.) The donation was “never to be refunded” unless the State withheld funding or the
23 College “cease[d] to exist,” in which case Hastings or his “heirs or legal representatives” would be
24 returned the \$100,000, plus “unexpended accumulated interest.” (*Id.*, §§ 7, 13.) The Act also stated
25 that the school would be “forever known and designated as ‘Hastings’ College of the Law’” and that a
26 Board seat would be reserved for an “heir” or “representative” of Hastings. (*Id.*, § 1.) The Act’s
27 provisions were later codified in the Education Code. (See Educ. Code, §§ 92200-92215.)

28 In 2017, Dean David Faigman asked Professor Brendan Lindsay to conduct an extensive

1 historical examination of Hastings’s conduct. (Faigman Decl. ¶ 5.) Professor Lindsay prepared a 119-
2 page paper concluding that Hastings played a “significant” role in “fomenting violence and atrocity
3 against California Indians.” (*Id.*, Ex. 1, at pp. 3-6.) Dean Faigman also convened a committee to
4 review Hastings’s legacy, and that committee prepared a report recommending that the College pursue
5 restorative-justice initiatives that Dean Faigman endorsed and presented to the Board. (Faigman Decl.
6 ¶¶ 4, 8-9; *id.*, Ex. 3, at pp. 4-7.) Dean Faigman did not initially recommend changing the College’s
7 name, though he recognized that there were alumni and faculty “on both sides of the question” (*id.* at
8 p. 10) and that a name change was not off the table (Faigman Decl., Ex. 4, at p. 2).

9 Debate about S.C. Hastings’s legacy continued and, in November 2021, the Board passed a
10 resolution that “Hastings” should be removed from the College’s name. (Faigman Decl., Ex. 5.) The
11 next month, the Board passed another resolution directing the Dean to engage key stakeholders about
12 the possibility of a “geographic” name in line with other UC schools. (Faigman Decl., Ex. 6.) Both
13 resolutions received unanimous support from all Board members, including Claes Lewenhaupt, the
14 great-great-grandson of S.C. Hastings who has sat on the Board since 2006. (Faigman Decl. ¶¶ 14-16.)

15 Although the vast majority of stakeholders supported the name change, some alumni objected.
16 (Faigman Decl. ¶ 18.) In response, the Board convened a committee to review Lindsay’s analysis and
17 the arguments of alumni who disagreed with it. (*Id.* ¶¶ 18-19; *id.*, Ex. 7, at p. 1.) The committee
18 requested additional analysis from Lindsay and considered arguments from alumni, including Kristian
19 Whitten (whose declaration Plaintiffs submitted with their motion) and Judge Richard Flier, both
20 members of the Hastings College Conservation Committee. (Faigman Decl., Ex. 7, at p. 1 & fn. 2.) Even
21 giving Hastings “the benefit of the doubt,” the committee concluded that he “played a significant role”
22 in atrocities against the Yuki People (*id.* at p. 2), and the Board passed another resolution reaffirming
23 its decision “to remove Hastings from the College’s name” (Faigman Decl. ¶ 20; *id.*, Ex. 8, at p. 14).

24 On July 27, 2022, following a consultative process and a hearing at which faculty, staff, Board
25 members, alumni, and tribal members spoke, the Board passed a resolution changing the College’s
26 name to UC College of the Law, San Francisco and calling on the Legislature to enact conforming
27 changes to the Education Code. (Faigman Decl. ¶ 21; *id.*, Ex. 9, at pp. 15-16). The new name would
28 take advantage of the College’s presence in a prominent city replete with other well-reputed institutions

1 of higher education. (Faigman Decl. ¶¶ 15-16, 21.)

2 On August 25, 2022, the Legislature passed AB 1936, with zero “no” votes in either house and
3 “yes” votes from over 95% of legislators. (Kahn Decl., Ex. 4, at p. 4.) The statute recognized the
4 College’s “three-year project” to examine founder Hastings’s legacy and its conclusion “that changing
5 the name of the College is in the best interests of the continuation of the College in perpetuity.” (Compl.,
6 Ex. 2 [“AB 1936”], § 1, subds. (k), (n).) AB 1936 conforms various Education Code provisions to the
7 name the College selected and eliminates the provision reserving a Board seat for a Hastings heir or
8 representative. (*Id.*, §§ 20-21.) Other provisions, including the one requiring repayment of \$100,000
9 if the College loses its funding or “ceases to exist” (Educ. Code, § 92212), are unaffected.

10 The College’s name change and AB 1936 go into effect on January 1, 2023. (Faigman Decl.
11 ¶ 25.) The College has developed a six-month plan to implement the name change and has undertaken
12 substantial efforts—including with respect to recruitment of current and future students, preparations
13 for the name change across all aspects of the College’s operations, and broader marketing efforts—to
14 prepare for that transition. (*Id.* ¶¶ 25, 32-37, 49-50.)

15 Plaintiffs are alleged descendants of S.C. Hastings and an association of College alumni.
16 (Compl. ¶¶ 7-13.) They filed the Complaint on October 4, 2022, over two months after the Board
17 changed the College’s name. Plaintiffs did not seek a temporary restraining order. Nor did they move
18 for a preliminary injunction for over six weeks after filing suit.

19 LEGAL STANDARD

20 Preliminary injunctions should be issued only “with great caution.” (*West v. Lind* (1960) 186
21 Cal.App.2d 563, 565.) The need for caution is heightened when a plaintiff asks the court to enjoin
22 public officials from their official duties. (*7978 Corp. v. Pitchess* (1974) 41 Cal.App.3d 42, 46.) And
23 courts must take special care not to issue prior restraints on protected expression, which “are disfavored
24 and presumptively invalid.” (*Gilbert v. Nat’l Enquirer, Inc.* (1996) 43 Cal.App.4th 1135, 1144; see
25 *Neb. Press Assn. v. Stuart* (1976) 427 U.S. 539, 558.) Before issuing a preliminary injunction, courts
26 consider (1) the likelihood that the plaintiff will prevail on the merits and (2) the relative interim harm
27 to the parties if the injunction were granted or denied. (*O’Connell v. Superior Court* (2006) 141
28 Cal.App.4th 1452, 1463.) Those factors operate on a sliding scale: the lower a plaintiff’s likelihood

1 of success, the greater the showing of interim harm to the plaintiff must be. (*Ibid.*)

2 ARGUMENT

3 I. Plaintiffs Haven’t Shown a Likelihood of Success on the Merits.

4 Because a preliminary injunction is a “delicate power,” “rarely, if ever, should it be exercised in
5 a doubtful case.” (*Grey v. Webb* (1979) 97 Cal.App.3d 232, 236, cleaned up.) Plaintiffs’ chances of
6 winning are not doubtful—they are nonexistent. Plaintiffs seek a prior restraint permanently enjoining
7 the College Defendants from using the name they prefer to express the school’s values and identity, so
8 Plaintiffs must shoulder a “heavy burden of showing justification” for that relief. (*Neb. Press, supra*, 427
9 U.S. at p. 558.) But each of their claims defy settled precedent that Plaintiffs—despite being on notice
10 after the College Defendants’ anti-SLAPP motion—strikingly ignore.

11 A. Plaintiffs’ Contracts Clause Claims Lack Any Merit.

12 1. The 1878 Act Is a Statute, Not a Contract.

13 Plaintiffs overleap the question whether there’s any contract here at all. There isn’t. They rely
14 on a statute, and for decades, courts have held that a statute creates contract rights only if it does so
15 “in unmistakable terms.” (*United States v. Winstar Corp.* (1996) 518 U.S. 839, 872.) When courts
16 say “unmistakable,” they mean it: it’s not enough that a statute could “plausibl[y]” be read as a contract
17 (*Cranston Firefighters v. Raimondo* (1st Cir. 2018) 880 F.3d 44, 49); that “the state ‘received
18 something in return’” for passing the law (*ibid.*); or that a statute provides that it will “forever” remain
19 in force (*City of Covington v. Kentucky* (1899) 173 U.S. 231, 238-239).

20 The College Defendants detailed this case law in their anti-SLAPP motion (at pp. 18-19),
21 explaining that any party arguing that a statute creates contract rights “confronts a tropical-force
22 headwind” (*Cranston, supra*, 880 F.3d at p. 48). Plaintiffs entirely ignore that case law. That’s perhaps
23 understandable, as the 1878 Act doesn’t contain the clarion language required to manifest legislative
24 intent to bind the government by contract “in terms too plain to be mistaken.” (*Puckett v. Lexington-
25 Fayette Urban Cnty. Gov’t* (6th Cir. 2016) 833 F.3d 590, 600.) But a party seeking extraordinary relief
26 can’t ignore the governing test in hopes that the Court will look the other way.

27 The handful of cases Plaintiffs cite don’t aid their cause. Their lead case is *Trustees of
28 Dartmouth College v. Woodward* (1819) 17 U.S. (4 Wheat.) 518, which involved a charter that King

George III granted in 1769. (*Id.* at pp. 626-627.) A charter was the preconstitutional equivalent of articles of incorporation: parties had to apply to the crown “to incorporate a religious [or] literary institution” like a university. (*Id.* at pp. 626, 629.) In holding that the charter was a contract, the Court underscored that “‘contract’ must be understood in a . . . limited sense” to protect legislatures’ ability to address “varying circumstances.” (*Id.* at pp. 627-628.) *Dartmouth College* thus involves a unique contractual instrument that satisfies the rigorous requirements of what we now call the unmistakability doctrine, which ensures that legislatures do not lightly lose the ability to regulate in the public interest. (See, e.g., *Pittman v. Chi. Bd. of Educ.* (7th Cir. 1995) 64 F.3d 1098, 1104.) It does not, as Plaintiffs seem to suggest, supplant the unmistakability doctrine for statutes that involve schools.

Plaintiffs’ remaining cases are even less helpful. The statute in *Indiana ex rel. Anderson v. Brand* (1938) 303 U.S. 95 was “couched in terms of contract” because it “sp[oke] of the making and canceling of indefinite contracts” and used the word “contract” 25 times. (*Id.* at p. 105.) By contrast, the 1878 Act is labeled an “Act” four times; features provisions addressing its “object” and its entry into force following “its passage”; and uses the prescriptive language of lawmaking, “authoriz[ing]” the College and detailing how the College will be funded and operated. (1878 Act, §§ 1, 7, 13, 15.) And in *Cal Fire Local 2881 v. California Public Employees’ Retirement System* (2019) 6 Cal.5th 965, the court reaffirmed the “clear manifestation of intent” required “to create contractual rights” and held the statute in question did *not* implicate the Contracts Clause. (*Id.* at p. 981.)

Equally unhelpful is Plaintiffs’ quotation of *Foltz v. Hoge* (1879) 54 Cal. 28. As the College Defendants explained (Anti-SLAPP Mot. at p. 19, fn. 2), there the College, in an effort to preserve its all-male status, used the term “complete contract” to argue it was immune from the rule guaranteeing women the right to enroll in the UC system. (See *Foltz, supra*, 54 Cal. at p. 28.) That case involved the allocation of authority between the Board and the Regents, not any issue of contractual obligations. Plaintiffs don’t dispute that the College’s comment isn’t binding as a matter of preclusion or estoppel. (See Anti-SLAPP Mot. at p. 19, fn. 2.) And as for their assertion that the comment in *Foltz* came at a time when “memories were fresh” (Mot. at p. 17), whether the Act contains the unmistakable language required to create contract rights is a question “of law” (*San Diego Police Officers’ Assn. v. San Diego City Emps.’ Ret. Sys.* (9th Cir. 2009) 568 F.3d 725, 738), not of individuals’ subjective beliefs.

At bottom, Plaintiffs rely on circumstances that could be *consistent with* contract formation—for instance, that Hastings gave \$100,000 to found the College and that the school would “forever” be known as Hastings. (Mot. at pp. 16-17.) But that a statute might *plausibly* be read as a contract is not enough to satisfy the unmistakability standard (*Cranston, supra*, 880 F.3d at p. 49), even where it uses language of permanence like “forever” (*City of Covington, supra*, 173 U.S. at pp. 238-239).

2. Plaintiffs Have No Valid Rights Under the Supposed Contract.

Plaintiffs’ problems don’t end there. As the College Defendants explained in their anti-SLAPP motion (at pp. 20-21), parties can’t sue unless they have concrete “rights flowing from” a contract (*Gardiner v. Gaither* (1958) 162 Cal.App.2d 607, 621), no matter how “enthusiastic” they may be about what the contract means or what “practical” or “indirect” interests they might have in its provisions (*D. Cummins Corp. v. U.S. Fid. & Guar. Co.* (2016) 246 Cal.App.4th 1484, 1490-1491). Plaintiffs are not parties to any agreement the State supposedly entered with S.C. Hastings in 1878, and they have identified no cognizable right in the contract they can assert to litigate their dispute.¹

The only argument Plaintiffs present, in a footnote without supporting authority, is that they are “third party beneficiar[ies].” (Mot. at p. 17, fn. 7.) But parties can sue as third-party beneficiaries only to enforce a provision specifically made “for [their] benefit” (*Murphy v. Allstate Ins. Co.* (1976) 17 Cal.3d 937, 943-944), and here, none of the provisions of the 1878 Act clears the way for this lawsuit.

\$100,000 Repayment. Plaintiffs give substantial attention to section 13 of the 1878 Act: if the College loses its funding or “cease[s] to exist,” Hastings or “his heirs or legal representatives” would be repaid \$100,000. (1878 Act, § 13.) But they make no effort to show that they qualify as Hastings’s “heirs” or “legal representatives” (1878 Act, § 13). Those are terms of art—an “heir,” for instance, is “[a] person who succeeds, by the rules of law, to an estate” (Black’s Law Dict. (1st ed. 1891) p. 565)—yet Plaintiffs treat those terms as indistinguishable from “distant relatives.” They are not.

In any event, as Plaintiffs recognize, “the College has not ‘cease[d] to exist’” (Compl. ¶ 104), and the State also has not left the College without funding (see AB 1936, § 1, subd. (g)). That provision

¹ Plaintiffs concede they lack contract standing in some respects. They don’t argue that the Hastings College Conservation Committee has contract rights. (See Anti-SLAPP Mot. at p. 20, fn. 3.) And although the Complaint asserts that the individual plaintiffs are S.C. Hastings’s “successors in interest” (Compl. ¶ 94), they now abandon that argument. (See Anti-SLAPP Mot. at p. 20.)

1 thus isn't at issue here and can't supply rights for Plaintiffs to assert.

2 In their motion, Plaintiffs suggest the \$100,000 repayment provision was eliminated by
3 AB 1936. (Mot. at pp. 14, 19, 21, fn. 8.) It wasn't. The repayment provision is codified at Education
4 Code section 92212. That section was not amended or repealed by AB 1936. (See AB 1936 [skipping
5 from section 92206 to section 92214].) Plaintiffs are simply wrong on this point.

6 **The Hastings Name.** The portion of the 1878 Act establishing the College's name doesn't
7 mention Hastings's descendants, "heirs" or otherwise. Plaintiffs thus have no footing in the "language
8 of the [Act]" to show that allowing descendants to sue to keep the College's name would be "consistent
9 with the objectives of the contract." (*Goonewardene v. ADP, LLC* (2019) 6 Cal.5th 817, 830.)

10 Plaintiffs argue they are "necessarily" beneficiaries because (1) the 1878 Act states "the College
11 would 'forever' bear" the Hastings name and (2) the Act "specifically contemplates and extends rights
12 to" Hastings's heirs. (Mot. at p. 17, fn. 7.) But the rights that the 1878 Act extends to heirs in *section 13*
13 involve only the school's funding and existence—not its name, which is addressed in *section 1*.

14 Plaintiffs also assert that the name provision "must have" been "for the benefit of [Hastings's]
15 family." (Mot. at p. 18.) But parties can't just assert that they derive some benefit from a contract;
16 there must be specific words in "the language of the contract" establishing that they *in particular* have
17 enforceable rights. (*Goonewardene, supra*, 6 Cal.5th at pp. 830-831.) And here, the 1878 Act shows
18 the Legislature knew how to grant Hastings's heirs a remedy. Its choice *not* to create such a remedy as
19 to the College's name confirms that Plaintiffs' claims aren't "consistent with" the supposed contract.
20 (*Id.* at p. 830; see *Smith v. Randall* (1856) 6 Cal. 47, 50 [if the Legislature grants one remedy but not
21 another, the inference is that the Legislature didn't mean to grant any other remedy].)

22 **The Hereditary Seat.** Finally, Plaintiffs highlight AB 1936's elimination of the Board seat
23 reserved for a Hastings heir or representative. That is a sideshow, particularly for this preliminary
24 injunction motion. Claes Lewenhaupt, who currently holds the seat, had no plans to vacate it before
25 AB 1936 (see Kahn Decl., Ex. 2 ["Lewenhaupt Decl."] ¶ 9), and after AB 1936 he will continue
26 holding that seat until "January 1, 2029" (AB 1936, § 21). Because nothing will change for the next
27 six years, Plaintiffs cannot plausibly argue that they need extraordinary relief now.

28 In any event, third-party beneficiaries must show they "would in fact benefit" from contract

provisions (*Goonewardene, supra*, 6 Cal.5th at p. 830), and here the descendant plaintiffs have at most an attenuated, uncertain interest in the seat. (Anti-SLAPP Mot. at pp. 20-21; see Lewenhaupt Decl. ¶¶ 4, 7-9, 20-21.) Although Plaintiffs submitted short, substantively identical declarations on behalf of the descendant plaintiffs, none disputes these basic facts. The most they could muster was that each was “eligible for” the Board seat. (E.g., S. Breeze Decl. ¶ 4.) But they don’t attest that Lewenhaupt had any plans to vacate the seat or that there was any realistic probability they would fill the seat if he had. (See Lewenhaupt Decl. ¶ 9.) They also don’t express any real interest in serving on the Board; indeed, before this dispute arose, Lewenhaupt had never been contacted by any of the individual plaintiffs about the Board. (Lewenhaupt Decl. ¶ 21.) And if the individual plaintiffs had any genuine interest in Board membership, they would still be free to seek one of the open-appointment seats. Plaintiffs thus have no concrete interest they can trace to AB 1936’s elimination of the hereditary seat.

3. Plaintiffs Cannot Identify Any Substantial or Unreasonable Impairment.

In two ways, Plaintiffs give inappropriately short shrift to the “wide discretion” legislatures retain even when they enter into contracts. (*U.S. Tr. Co. of N.Y. v. New Jersey* (1977) 431 U.S. 1, 16.)

First, a state does not substantially impair a contract if it leaves “the contractual bargain” intact. (*Sveen v. Melin* (2018) 138 S.Ct. 1815, 1821-1822.) Courts must “ask the narrower, more focused question” of whether a statute creates the “specific” contract rights a plaintiff is asserting, not merely whether the statute “b[inds] the State in some manner.” (*Cranston, supra*, 880 F.3d at p. 48.) Here, if *any* provision of the Act could be said to contractually bind the State, it would be section 13, which provides a limited remedy in the event the State fails to adequately fund the College or the school ceases to exist. But that provision has not been impaired, and Plaintiffs acknowledge that the conditions that would trigger section 13’s remedy have not come to pass. (Compl. ¶ 104.)

Second, Plaintiffs fail to show that AB 1936 was “unreasonable or unnecessary.” (*Conn. State Police Union v. Rovella* (2d Cir. 2022) 36 F.4th 54, 67.) To begin, although Plaintiffs ask for “heightened judicial scrutiny” (Mot. at p. 15), that standard applies only when a state tries to avoid its own “financial obligations” (*U.S. Tr. Co., supra*, 431 U.S. at pp. 25-26)—not, as here, when a state acts to serve “the public interest” rather than “self-servingly.” (*Rovella, supra*, 36 F.4th at pp. 63-67.) Plaintiffs were on notice about that principle (Anti-SLAPP Mot. at pp. 22-23); again, they ignored it.

1 In applying the wrong standard, Plaintiffs treat this case as if it were an opportunity to re-present
2 the same protests that failed to carry the day before the Board and Legislature.² But the question is not
3 whether the Board’s and Legislature’s decisions were correct; it is whether their decisions were
4 *unreasonable*. Take *Rovella*, which held that a state’s decision to nullify a provision in a collective
5 bargaining agreement shielding police records from public scrutiny merited “deference” and was not
6 unreasonable or unnecessary. (36 F.4th at pp. 65-68.) No doubt that decision was hotly debated. But
7 the court’s analysis ended once it concluded the law “served a legitimate public purpose” and was not
8 the result of the state’s trying to “benefit itself financially.” (*Id.* at pp. 63-67.) All the same holds true
9 here (see Anti-SLAPP Mot. at pp. 23-24), and Plaintiffs leave that point effectively un rebutted.

10 To the extent Plaintiffs engage with this issue, they rely on a faulty syllogism: the only interest
11 underlying AB 1936 is “restorative justice”; the College pursued restorative-justice measures before
12 changing its name; therefore the change was unnecessary. (Mot. at pp. 18-19.) To be sure, *part* of the
13 reason for the change was to safeguard the College’s relationship with indigenous people. (Faigman
14 Decl. ¶¶ 13, 42-43; see AB 1936, § 1, subd. (n) [name change “is an element of the College’s ongoing
15 work” with tribes].) But the name change *also* protected the College’s interests, including preserving its
16 ability to recruit students and faculty, revitalizing its connection with San Francisco and other prominent
17 UC schools, and ensuring that the identity of one of the state’s foremost law schools was not associated
18 with violence against indigenous people. (Faigman Decl. ¶¶ 12, 15, 30-37, 44.) Those are undoubtably
19 “legitimate public purposes,” and Plaintiffs don’t make a “compelling” showing that *those* purposes
20 could be accomplished by keeping the Hastings name. (*Rovella, supra*, 36 F.4th at pp. 63-67.)

21 **B. Plaintiffs’ Remaining Claims Are Equally Meritless.**

22 ***Ex Post Facto* and Bill of Attainder Claims.** The Ex Post Facto Clause “applies only to
23 criminal laws.” (*Armijo v. Miles* (2005) 127 Cal.App.4th 1405, 1419-1420.) The College Defendants
24 previously pointed that out (Anti-SLAPP Mot. at p. 24), but Plaintiffs still don’t identify any criminal
25 law being retroactively applied to *anyone*, much less to them.

26 ² Plaintiffs attach a declaration from Kristian Whitten, a Hastings graduate who disputes Lindsay’s
27 analysis, and contend Lindsay’s paper should be discredited as “consistent with [his] earlier writings.”
28 (Mot. at p. 13.) Whitten presented similar arguments to the committee the Board convened to review
Lindsay’s work in response to alumni criticism (Faigman Decl., Ex. 7, at p. 1 & fn. 2) and spoke in
opposition to the name change at the Board’s June 3, 2022 meeting (Faigman Decl., Ex. 8, at p. 6).

1 Plaintiffs’ bill of attainder claim fares no better. To prevail, they would need the “clearest
2 proof” that AB 1936 “specifies” and “inflicts punishment” on them. (*SeaRiver Mar. Fin. Holdings,*
3 *Inc. v. Mineta* (9th Cir. 2002) 309 F.3d 662, 668-669.) But the only person even arguably “single[d]
4 out” (*ibid.*) by AB 1936 is S.C. Hastings, not alumni or descendants born long after Hastings’s death.
5 In any event, AB 1936 cannot be a bill of attainder because it “‘reasonably can be said to further
6 nonpunitive legislative purposes.’” (*Id.* at p. 674.) Changing the name was “in the best interests of the
7 continuation of the College” and removed a “glaring barrier” to the “next generation of lawyers.”
8 (Kahn Decl., Ex. 3, at p. 3; Kahn Decl., Ex. 4, at p. 3; see AB 1936, § 1, subd. (n) [act would best serve
9 College “in perpetuity”].) Plaintiffs make no effort to address these plainly nonpunitive interests.

10 **Constitutional Autonomy.** Plaintiffs advance a theory that’s never been seen before: if the
11 Legislature amends a statute *at the College’s request*, and in response to a decision the Board reached
12 independently, that somehow amounts to unconstitutional interference with the College’s affairs. The
13 unprecedented (and illogical) nature of that theory is reason alone to deny a preliminary injunction.

14 Another reason is Plaintiffs’ muddled approach to authority. Plaintiffs rely on the proposition
15 that the state constitution forbids changes to the College’s “form and character.” (Mot. at pp. 20-21.)
16 But as they recognize (*id.* at p. 12, fn. 6), those words are no longer in the constitution, which was
17 amended in 1918: in place of the provision barring changes to “form and character,” what remains is
18 a protection against “political or sectarian influence” (Cal. Const., art. IX, § 9, subd. (f))—what courts
19 have called unwanted “‘interference.’” (*Coutin v. Lucas* (1990) 220 Cal.App.3d 1016, 1024, 1026-
20 1027.) Plaintiffs never explain how AB 1936 runs afoul of that operative constitutional text.

21 ***Ultra Vires* Expenditure and § 1983 Claims.** Plaintiffs agree that their *ultra vires* expenditure
22 claim requires the challenged actions to be “unlawful.” (Mot. at p. 21; see Anti-SLAPP Mot. at pp. 25-
23 26.) Because Plaintiffs can’t show that any part of the College’s name change or AB 1936 is unlawful,
24 that claim lacks any merit. The same goes for Plaintiffs’ claim under 42 U.S.C. § 1983, which hinges
25 on federal constitutional claims with no chance of success. (See Anti-SLAPP Mot. at p. 26.)

26 **II. The Balance of Harms Weighs Strongly Against an Injunction.**

27 Because a court “may not grant a preliminary injunction” absent “some possibility that the
28 plaintiff would ultimately prevail” (*O’Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1463),

1 this Court’s analysis could stop here. But the balance of harms likewise precludes relief: granting a
2 preliminary injunction would stifle protected expression, produce irreparable damage to the College, and
3 subvert the public interest, all while avoiding at best negligible or speculative harms to Plaintiffs.

4 **A. The Injunction Would Be a Prior Restraint and Would Cause Irreparable Harm.**

5 Plaintiffs assert the College won’t suffer any harm from an injunction because it “can continue
6 to operate.” (Mot. at p. 23). That is facile: the injunction would produce extensive harms.

7 **Prior Restraint.** The College’s name “is inseparable from its identity” and the way it expresses
8 its values. (Faigman Decl. ¶¶ 41-45.) That “expressive speech” is protected by the First Amendment
9 (*Wandering Dago Inc. v. N.Y. State Off. of Gen. Servs.* (N.D.N.Y. 2014) 992 F.Supp.2d 102, 116), and
10 interfering with that valuable First Amendment expression, ““for even minimal periods of time,
11 unquestionably [produces] irreparable injury”” (*Associated Press v. Otter* (9th Cir. 2012) 682 F.3d 821,
12 826). Indeed, as the College Defendants explained in their anti-SLAPP motion, by attempting to stop
13 the College from expressing itself in the manner it wants, Plaintiffs are seeking a prior restraint, a form
14 of relief that is “disfavored and presumptively invalid.” (*Gilbert v. Nat’l Enquirer, Inc.* (1996) 43
15 Cal.App.4th 1135, 1144.) But Plaintiffs have not made anything like a “compelling” showing that such
16 a restraint “is necessary,” which courts have recognized is “a heavy burden” indeed. (*Evans v. Evans*
17 (2008) 162 Cal.App.4th 1157, 1167; see Cal. Const., art. I, § 2 [prohibiting prior restraints].)

18 **Fundraising Campaign.** The College recently embarked on a nine-figure fundraising campaign
19 to increase the school’s endowment. (Faigman Decl. ¶ 28.) The school is currently in the critical “silent
20 phase” of that campaign, with the Dean personally soliciting major donors to make foundational gifts,
21 and the College’s new name and identity are at the center of its efforts. (*Id.* ¶¶ 29-30.) Delaying
22 implementation of the name change would confuse and discourage donors and jeopardize the financial
23 security of the College into the future. (*Id.* ¶ 31.)

24 **Relationship with Students.** Students expressed overwhelming support for the decision to
25 change the school’s name. (Faigman Decl. ¶¶ 39-40.) Delaying the name change would seriously
26 harm the important “relationship of trust” between students and the school. (*Id.* ¶ 40.) And, again, it
27 would do so by stifling the College Defendants speech, preventing them from using the name that
28 reflects the school’s identity and forcing them to use a name that most students have rejected.

1 **Relationship with Tribal Leaders.** The College has committed to building relationships with
2 local tribal leadership, and a vital part of those efforts has been the school’s commitment to changing
3 its name. (Faigman Decl. ¶ 42.) Delaying the name change could lead to feelings of confusion and
4 “betrayal” on the part of tribal leaders and could frustrate the College’s efforts to engage in restorative-
5 justice measures throughout the Round Valley. (*Id.* ¶¶ 42-43.)

6 **Recruiting and Marketing.** Law school admissions is a “zero-sum world.” (Faigman Decl.
7 ¶ 34.) The College’s admissions department is currently competing with law schools throughout the
8 country for the best students. (*Id.* ¶ 33.) But Plaintiffs’ requested relief would prevent the College
9 from using the new name it selected after careful deliberation and leave the school tied to a name that
10 has been publicly discarded and linked to historical violence against indigenous communities. (*Id.*
11 ¶¶ 34-35.) That will put the College at a serious disadvantage relative to other law schools. (*Ibid.*)

12 **Petitioning for Funding.** Plaintiffs’ requested relief threatens yet another protected activity:
13 petitioning the government for funding. The College has spent considerable time and effort building
14 relationships with legislators. (Faigman Decl. ¶ 46.) Those efforts, and the attention they brought to
15 the need for the name change, provide a critical window now for the College to seek the significant
16 funding it needs to implement the name change. (*Id.* ¶ 47-48.) That window will soon close—and if
17 it does, the College will have to exhaust valuable tuition resources to implement the change. (*Id.* ¶ 48.)

18 In short: the relief Plaintiffs seek will seriously harm how the College defines and expresses
19 itself, recruits students and faculty, relates to students and tribal leaders, and plans for its future.³

20 **B. Plaintiffs Cannot Sidestep the Public Interest.**

21 When a plaintiff “seeks to enjoin public officers and agencies in the performance of their
22 duties,” the “public interest *must* be considered.” (*O’Connell, supra*, 141 Cal.App.4th at p. 1471; see,
23 e.g., *Tahoe Keys Prop. Owners’ Assn. v. State Water Res. Control Bd.* (1994) 23 Cal.App.4th 1459,
24 1472-1473.) Yet here, Plaintiffs don’t make any effort to address the public interest. The closest they
25 come is their insistence that AB 1936 was enacted “to satisfy a narrow political constituency,” not “the

26 ³ The extent of these harms foreclose Plaintiffs’ effort (Mot. at p. 24) to avoid a meaningful bond. A
27 bond as low as \$1,000 wouldn’t remotely account for “the harmful effect[s] which the injunction
28 [would] have on” the College Defendants or “the reasonable counsel fees and expenses” the
College Defendants would incur. (*Abba Rubber Co. v. Seaquist* (1991) 235 Cal.App.3d 1, 15.)
Were the Court to grant an injunction, the College Defendants would submit briefing on the bond.

1 general public welfare.” (Mot. at pp. 9, 19.) But in reality, the decision to change the school’s name
2 was the product of overwhelming support by any metric: it was effected through unanimous Board
3 resolutions and reflected the views of a vast majority of stakeholders. (Faigman Decl. ¶¶ 14, 16, 20-21.)
4 AB 1936 received even more unambiguous support: it passed both houses with zero “no” votes and
5 “yes” votes from over 95% of legislators. (Kahn Decl., Ex. 4, at p. 4.)

6 There is good reason for that support. The College is an important public institution. How that
7 institution defines and expresses itself—and whether it operates under the name of someone involved
8 in a campaign of violence against indigenous people—is of deep concern not just to students, faculty,
9 alumni, and tribal leaders, but also to the public more broadly. Preventing the College from changing
10 its name in the way that diverse stakeholders overwhelmingly preferred would defy the public
11 interest—and that is an “additional reason . . . for refusal to grant injunctive relief.” (*Cota v. County*
12 *of Los Angeles* (1980) 105 Cal.App.3d 282, 292.)

13 C. Plaintiffs’ Supposed Harms Are Minimal in Comparison.

14 Plaintiffs don’t come close to “demonstrat[ing] a real threat of immediate and irreparable injury”
15 absent a preliminary injunction. (*Triple A Mach. Shop, Inc. v. State* (1989) 213 Cal.App.3d 131, 138.)

16 **Unlawful Expenditures.** Plaintiffs argue an injunction is necessary to prevent what they call
17 *ultra vires* expenditures. (Mot. at p. 21.) But they ignore case law holding that the ““general interest
18 in not having public funds spent unlawfully . . . does not in itself constitute the type of irreparable harm
19 that warrants the granting of preliminary injunctive relief.”” (*Cerletti v. Newsom* (2021) 71 Cal.App.5th
20 760, 767; accord, e.g., *Cohen v. Bd. of Supervisors* (1986) 178 Cal.App.3d 447, 454.)

21 **Reputational Harm.** Plaintiffs gesture toward “reputation[al]” harm in being associated with
22 “a name that has been shamed, shunned, and condemned.” (Mot. at p. 10.) But they identify no injury
23 Plaintiffs would suffer *as a result of the denial of a preliminary injunction*. (See *Cerletti, supra*, 71
24 Cal.App.5th at p. 767.) Plaintiffs may take issue with the “scorn” they claim was brought on S.C.
25 Hastings (Mot. at p. 20), but that has already happened; a preliminary injunction won’t change that.

26 **Specific Performance.** Plaintiffs suggest their request for specific performance would become
27 moot absent preliminary relief. (Mot. at p. 22.) But nothing would prevent the College from changing
28 the school’s name back if the Court ordered it to do so. That makes this nothing like the paradigmatic

1 case where an old house is about to be razed or a valuable painting destroyed. Plaintiffs implicitly
2 acknowledge as much, suggesting the name change could not “easily” be un-done (*id.* at p. 23)—maybe
3 so, but that doesn’t mean specific performance would become impossible absent immediate relief.

4 **Constitutional Rights.** Plaintiffs assert that an injunction is necessary to “prevent violations
5 of [their] constitutionally-protected rights.” (Mot. at p. 10.) Even if constitutional deprivations can
6 sometimes qualify as irreparable harm, that principle doesn’t apply where, as here, “the constitutional
7 claim is . . . tenuous.” (*Goldie’s Bookstore, Inc. v. Superior Court* (9th Cir. 1984) 739 F.2d 466, 472.)

8 **Harm to Students.** Plaintiffs state, without citation, that graduating students will suffer harm
9 in receiving a “generic unbranded” diploma. (Mot. at p. 10.) The College’s new name is not “generic”
10 any more than “UC Berkeley” or “UCLA” are generic; the name capitalizes on the College’s site in the
11 heart of San Francisco. (Faigman Decl. ¶¶ 15, 21, 30, 37.) Nor will the College’s new name be
12 “unbranded”; the school has undertaken extensive work to make sure the broader market will be well
13 aware of the name by mid- to late 2023. (*Id.* ¶¶ 33-37.) And the vast majority of students who engaged
14 in the consultative process *supported* the name change. (*Id.* ¶¶ 39-40.)

15 Two final aspects of Plaintiffs’ motion confirm they are not entitled to relief. *First*, they waited
16 *months* after the name change to sue and over six weeks after filing the Complaint—and until after the
17 anti-SLAPP motion had been filed—to seek an injunction. There is no good reason for Plaintiffs’ delay
18 in seeking relief, and “on this ground alone” the Court could deny relief. (*West v. Lind* (1960) 186
19 Cal.App.2d 563, 565-566; see also, e.g., *O’Connell, supra*, 141 Cal.App.4th at pp. 1481-1482.)

20 *Second*, the College has already taken active steps toward implementing the name change that
21 would require equally active steps to undo. (Faigman Decl. ¶¶ 49-50.) Because the “‘essence and
22 effect’” of the requested relief would require the College Defendants “to perform affirmative acts,”
23 Plaintiffs are seeking a mandatory rather than a prohibitory injunction (*Daly v. San Bernardino Cty.*
24 *Bd. of Supervisors* (2021) 11 Cal.5th 1030, 1047)—yet another reason why this Court should deny their
25 motion. (*Bd. of Supervisors v. McMahon* (1990) 219 Cal.App.3d 286, 295 [mandatory injunctions
26 available only “‘in extreme cases where the right thereto is clearly established’”].)

27 CONCLUSION

28 The Court should deny Plaintiffs’ motion for a preliminary injunction.

1 DATED: December 8, 2022

Respectfully submitted,

2 By: /s/ Theodore J. Boutrous Jr.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO (UNLIMITED JURISDICTION)

HASTINGS COLLEGE CONSERVATION
COMMITTEE, an unincorporated association of
alumni of Hastings College of the Law;
STEPHEN HASTINGS BREEZE, an individual;
STEPHANIE AZALEA BRACKEL, an
individual; CATHERINE TORSTENSON, an
individual; SCOTT HASTINGS BREEZE, an
individual; COLLETTE BREEZE MEYERS, an
individual; and COLIN HASTINGS BREEZE,
an individual,

Plaintiffs,

v.

STATE OF CALIFORNIA; DAVID FAIGMAN,
in his official capacity as Chancellor and Dean of

CASE NO. CGC-22-602149

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF COLLEGE
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

[Declaration of Matthew S. Kahn filed
concurrently]

HEARING:

Date: December 29, 2022

Time: 9:30 a.m.

Dept: 302

Judge: Hon. Richard B. Ulmer Jr.

Hastings College of the Law; SIMONA AGNOLUCCI, in her official capacity as chair of the Board of Directors of Hastings College of the Law; CARL ROBERTSON, in his official capacity as vice chair of the Board of Directors of Hastings College of the Law; SHASHIKALA DEB, in her official capacity as a director of Hastings College of the Law; MICHAEL EHRLICH, in his official capacity as a director of Hastings College of the Law; ANDREW GIACOMINI, in his official capacity as a director of Hastings College of the Law; ANDREW HOUSTON, in his official capacity as a director of Hastings College of the Law; CLAES LEWENHAUPT, in his official capacity as a director of Hastings College of the Law; MARY NOEL PEPYS, in her official capacity as a director of Hastings College of the Law; COURTNEY POWER, in her official capacity as a director of Hastings College of the Law; ALBERT ZECHER, in his official capacity as a director of Hastings College of the Law; and DOES 1-25, inclusive,

Defendants.

Action Filed: October 4, 2022
Trial Date: None set

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE that, under Evidence Code sections 451, 452, and 453 and Rules of
3 Court 3.1113(l) and 3.1306(c), defendants David Faigman, Simona Agnolucci, Carl Robertson,
4 Shashikala Deb, Michael Ehrlich, Andrew Giacomini, Andrew Houston, Claes Lewenhaupt, Mary
5 Noel Pepys, Courtney Power, and Albert Zecher (the “College Defendants”) request that the Court take
6 judicial notice of the documents set forth below in considering the College Defendants’ opposition to
7 Plaintiffs’ motion for preliminary injunction. The authenticity of the exhibits is established through
8 the Declaration of Matthew S. Kahn (the “Kahn Declaration”), which is filed concurrently with this
9 request for judicial notice.

- 10 • Attached to the Kahn Declaration as **Exhibit 1** is a March 26, 1878 statute, titled “An Act to
11 create Hastings’ College of the Law, in the University of the State of California,” and published
12 as Chapter 351 in the 1878 volume of the *Statutes of California*.
 - 13 • Attached to the Kahn Declaration as **Exhibit 2** is the declaration of Claes Lewenhaupt in
14 support of the College Defendants’ special motion to strike, filed in this case on November 2,
15 2022.
 - 16 • Attached to the Kahn Declaration as **Exhibit 3** is the Senate Education Committee analysis
17 (May 19, 2022 version) of Assembly Bill No. 1936, which the Legislature enacted on
18 August 25, 2022.
 - 19 • Attached to the Kahn Declaration as **Exhibit 4** is the Assembly Floor analysis (August 11, 2022
20 version) of Assembly Bill No. 1936, which the Legislature enacted on August 25, 2022.
 - 21 • Attached to the Kahn Declaration as **Exhibit 5** is an excerpt of “Current Topics,” published in
22 the *Pacific Coast Law Journal* (Volume 1, Number 18) on June 29, 1878.
- 23
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1 **Request for Judicial Notice**

2 A trial court “shall” take judicial notice of matters upon request, where the requesting party
3 provides (1) sufficient notice to adverse parties and (2) “sufficient information to enable [the court] to
4 take judicial notice of the matter.” (Evid. Code, § 452, subds. (c)-(d); *id.* § 453.) Under clearly
5 established law, each of the five documents attached to the Kahn Declaration is properly subject to
6 judicial notice by this Court, and should be considered in connection with the College Defendants’
7 opposition to Plaintiffs’ motion for preliminary injunction.

8 ***Exhibit 1.*** Exhibit 1 is a duly enacted statute of the Legislature. Exhibit 1 is a March 26, 1878
9 statute, titled “An Act to create Hastings’ College of the Law, in the University of the State of
10 California,” and published as Chapter 351 in the 1878 volume of the *Statutes of California*. Under the
11 Evidence Code, “[j]udicial notice shall be taken of . . . [t]he public statutory law of this state.” (Evid.
12 Code, § 451, subd. (a); see also, e.g., *People v. Dunlap* (1993) 18 Cal.App.4th 1468, 1478 [trial courts
13 are “required to take judicial notice of . . . statutes”].) The Court should therefore take judicial notice
14 of Exhibit 1.

15 ***Exhibit 2.*** Exhibit 2 is the declaration of Claes Lewenhaupt in support of the College
16 Defendants’ special motion to strike, filed in this case on November 2, 2022. This document is a
17 “[r]ecord[] of . . . a[] court of this state.” (Evid. Code., § 452, subd. (d).) The existence of this court
18 record is not “reasonably subject to dispute” and is “capable of immediate and accurate determination
19 by resort to sources of reasonably indisputable accuracy.” (*Id.*, § 452, subd. (h).) The Court should
20 therefore take judicial notice of Exhibit 2.

21 ***Exhibits 3 and 4.*** Exhibits 3 and 4 are drawn from the legislative history of Assembly
22 Bill 1936: Exhibit 3 is an analysis of the bill prepared for the Senate Committee on Education, and
23 Exhibit 4 is an analysis of the bill prepared for the Assembly. Courts routinely take judicial notice of
24 legislative history materials, including legislative analysis of a bill that is later enacted. (See, e.g., *In*
25 *re S.B.* (2004), 32 Cal.4th 1287, 1296, fn. 3 [taking judicial notice of analysis by the Assembly
26 Committee on Judiciary]; *Syngenta Crop Protection, Inc. v. Helliker* (2006) 138 Cal.App.4th 1135,
27 1162, fn. 10 [taking judicial notice of an “analysis by the Senate Rules Committee”]; *People v. Weaver*
28 (2019) 36 Cal.App.5th 1103, 1114 fn. 12 [similar].) The Court should therefore take judicial notice of

1 Exhibits 3 and 4.

2 **Exhibit 5.** Exhibit 5 is an excerpt of an article, “Current Topics,” published in the *Pacific*
3 *Coast Law Journal* on June 29, 1878. Courts may take judicial notice of documents “not reasonably
4 subject to dispute” and “capable of immediate and accurate determination by resort to sources of
5 reasonably indisputable accuracy.” (Evid. Code, § 452, subd. (h).) Applying this principle, courts
6 regularly take judicial notice of media publications. (See, e.g., *Norgart v. Upjohn Co.* (1999) 21 Cal.4th
7 383, 408 [taking judicial notice of “a controversy . . . in the popular press”]; *People v. Hardy* (1992) 2
8 Cal.4th 86, 175, fn. 24 [taking judicial notice of two newspaper articles]; see also *Von Saher v. Norton*
9 *Simon Museum of Art at Pasadena* (9th Cir. 2010) 592 F.3d 954, 960 [taking judicial notice of “various
10 newspapers, magazines, and books” that were “in the public realm at the time”].) Because this issue
11 of “Current Topics” is “not reasonably subject to dispute” (Evid. Code, § 452, subd. (h))—it remains
12 readily accessible through Hein Online, a leading and reputable research platform—the Court should
13 also take judicial notice of Exhibit 5.

14 For the foregoing reasons, the College Defendants respectfully request that this Court take
15 judicial notice of Exhibits 1-5 identified above and submitted as attachments to the Kahn Declaration
16 under Evidence Code sections 451, 452, and 453.

17 DATED: December 8, 2022

Respectfully submitted,

18 By: /s/ Theodore J. Boutrous Jr.

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Counsel for the College Defendants

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO (UNLIMITED JURISDICTION)

HASTINGS COLLEGE CONSERVATION
COMMITTEE, an unincorporated association of
alumni of Hastings College of the Law;
STEPHEN HASTINGS BREEZE, an individual;
STEPHANIE AZALEA BRACKEL, an
individual; CATHERINE TORSTENSON, an
individual; SCOTT HASTINGS BREEZE, an
individual; COLLETTE BREEZE MEYERS, an
individual; and COLIN HASTINGS BREEZE,
an individual,

Plaintiffs,

v.

STATE OF CALIFORNIA; DAVID FAIGMAN,

CASE NO. CGC-22-602149

**DECLARATION OF MATTHEW S.
KAHN IN SUPPORT OF COLLEGE
DEFENDANTS' REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF
OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

HEARING:

Date: December 29, 2022

Time: 9:30 a.m.

Dept: 302

Judge: Hon. Richard B. Ulmer, Jr.

1 in his official capacity as Chancellor and Dean of
2 Hastings College of the Law; SIMONA
3 AGNOLUCCI, in her official capacity as chair of
4 the Board of Directors of Hastings College of the
5 Law; CARL ROBERTSON, in his official
6 capacity as vice chair of the Board of Directors
7 of Hastings College of the Law; SHASHIKALA
8 DEB, in her official capacity as a director of
9 Hastings College of the Law; MICHAEL
10 EHRLICH, in his official capacity as a director
11 of Hastings College of the Law; ANDREW
12 GIACOMINI, in his official capacity as a
13 director of Hastings College of the Law;
14 ANDREW HOUSTON, in his official capacity as
15 a director of Hastings College of the Law;
16 CLAES LEWENHAUPT, in his official capacity
17 as a director of Hastings College of the Law;
18 MARY NOEL PEPYS, in her official capacity as
19 a director of Hastings College of the Law;
20 COURTNEY POWER, in her official capacity as
21 a director of Hastings College of the Law;
22 ALBERT ZECHER, in his official capacity as a
23 director of Hastings College of the Law; and
24 DOES 1-25, inclusive,

Defendants.

Action Filed: October 4, 2022
Trial Date: None set.

DECLARATION OF MATTHEW S. KAHN

I, Matthew S. Kahn, declare as follows:

1. I am an attorney admitted to practice law before this Court and all courts of the State of California. I am a partner at Gibson, Dunn & Crutcher LLP, counsel for the College Defendants in the above-captioned action. I offer this declaration in support of the College Defendants' request for judicial notice in support of their opposition to Plaintiffs' motion for preliminary injunction. I have personal knowledge of the facts set forth in this declaration and, if called to testify, I could and would competently testify to them.

1. Attached as **Exhibit 1** is a true and correct copy of a March 26, 1878 statute, titled "An Act to create Hastings' College of the Law, in the University of the State of California," and published as Chapter 351 in the 1878 volume of the Statutes of California. This document was obtained at my direction from Hein Online, a digital research database, and is available at <https://heinonline.org/HOL/P?h=hein.ssl/ssca0212&i=601>.

2. Attached as **Exhibit 2** is a true and correct copy of the declaration of Claes Lewenhaupt in support of the College Defendants' special motion to strike, filed in this case on November 2, 2022.

3. Attached as **Exhibit 3** is a true and correct copy of the Senate Education Committee Analysis of AB 1936 (May 19, 2022 version). This document was obtained at my direction from the California Assembly website, and is available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB1936#.

4. Attached as **Exhibit 4** is a true and correct copy of the Assembly Floor Analysis of AB 1936 (August 11, 2022 version). This document was obtained at my direction from the California Assembly website, and is available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB1936#.

5. Attached as **Exhibit 5** is a true and correct copy of the article "Current Topics," published in the *Pacific Coast Law Journal* (Volume 1, Number 18) on June 29, 1878. This document was obtained at my direction from Hein Online, a digital research database, and is available at <https://heinonline.org/HOL/P?h=hein.journals/paccolj1&i=345>.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct.

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4
5 Executed in San Francisco, California on this 8th day of December, 2022.

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7 

8 _____
Matthew S. Kahn

9 *Attorney for the College Defendants*
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Kahn Declaration

Ex. 1

fourteenth, in the year one thousand eight hundred and seventy-six, and of May seventh, and October first, of the year one thousand eight hundred and seventy-seven, are hereby in all things ratified and confirmed and made valid.

SEC. 4. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed, and this Act shall take effect immediately.

CHAP. CCCL.—[See volume of *Amendments to the Codes.*]

CHAP. CCCLI.—*An Act to create Hastings' College of the Law, in the University of the State of California.*

[Approved March 26, 1878.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. That S. C. Hastings be authorized to found and establish a Law College, to be forever known and designated as "Hastings' College of the Law." That the officers of said college shall be a Dean, Registrar, and eight (8) Directors. That the Directors shall be Joseph P. Hoge, W. W. Cope, Delos Lake, Saml. M. Wilson, O. P. Evans, Thos. B. Bishop, John R. Sharpstein, and Thos. I. Bergin, of the Bar Association of the City of San Francisco, who shall, when vacancies occur, fill the same from members of said Association or otherwise, and shall always provide for filling a vacancy with some heir or some representative of the said S. C. Hastings. That the Dean and Registrar shall be appointed by the Directors.

Authorizing
founding
of Law
College.

SEC. 2. Said College shall affiliate with the University of the State, upon such terms as shall be for the welfare of the College and University, and shall be the Law Department of the University.

Shall affil-
iate with
University.

SEC. 3. The Faculty of the University shall grant diplomas to the students of the College, and the President shall sign and issue the diplomas.

SEC. 4. There shall be set apart for the use of the students of the College some room or suitable hall at the University, and the Board of Supervisors of the City of San Francisco is authorized to supply a suitable hall in the City of San Francisco for the students and Directors.

Room for
students.

SEC. 5. The Dean of said College shall be ex officio of the Faculty of the University, to be designated as such by the Directors of the College.

SEC. 6. The diploma of the students shall entitle the student to whom it is issued to a license to practice in all the

Diploma
made license
to practice.

Courts of this State, subject to right of the Chief Justice of the State to order an examination, as is in ordinary cases of applicants without such diploma.

Condition.

SEC. 7. This Act is passed upon the condition that said S. C. Hastings shall pay into the State treasury the sum of one hundred thousand dollars, and is never to be refunded except as hereinafter provided.

SEC. 8. The sum of seven per cent. per annum upon one hundred (\$100,000) thousand dollars is to be appropriated by the State and paid in two semi-annual payments to the Directors of the College.

Business of
College.

SEC. 9. The business of the College shall be to afford facilities for the acquisition of legal learning in all branches of the law, and to this end shall establish a curriculum of studies, and shall matriculate students who may reside at the University of the State as well as students residing in other parts of the State.

SEC. 10. Professorships may be established in the name of any founder of such Professorships who shall pay to the Directors the sum of thirty (\$30,000) thousand dollars.

SEC. 11. All the business of the College shall be managed by the Directors without compensation, and all acting officers, including the Dean and Registrar, shall be appointed by the Directors and removed by them.

SEC. 12. The Law Library Association, of the City of San Francisco, shall grant to the students the use of their library upon such terms and conditions as they may agree with the Directors of the College.

Object of
Act.

SEC. 13. The object of this Act being to grant a perpetual annuity for the support and maintenance of said College, should the State, or any government which shall succeed it, fail to pay to the Directors of said College the sum of seven per cent. per annum, as above stipulated, or should the College cease to exist, then the State, or its successor, shall pay to the said S. C. Hastings, his heirs or legal representatives, the said sum of one hundred (\$100,000) thousand dollars and all unexpended accumulated interest; *provided*, that such failure be not caused by mistake or accident, or omission of the Legislature to make the appropriation at any one session.

SEC. 14. That the Chief Justice of the Supreme Court of the State (or if there be no such judicial officer of the State or Government) shall be the President of the Board of Directors, five of whom shall be a quorum to transact all business.

SEC. 15. This Act shall take effect and be in force from and after its passage.

Kahn Declaration

Ex. 2

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16 *Counsel for the College Defendants*

17
18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 FOR THE COUNTY OF SAN FRANCISCO (UNLIMITED JURISDICTION)

20 HASTINGS COLLEGE CONSERVATION
COMMITTEE, an unincorporated association of
21 alumni of Hastings College of the Law;
STEPHEN HASTINGS BREEZE, an individual;
22 STEPHANIE AZALEA BRACKEL, an
individual; CATHERINE TORSTENSON, an
23 individual; SCOTT HASTINGS BREEZE, an
individual; COLLETTE BREEZE MEYERS, an
24 individual; and COLIN HASTINGS BREEZE,
an individual,

25 *Plaintiffs,*

26
27 v.

28 STATE OF CALIFORNIA; DAVID FAIGMAN,
in his official capacity as Chancellor and Dean of

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

11/02/2022
Clerk of the Court
BY: EDNALEEN ALEGRE
Deputy Clerk

CASE NO. CGC-22-602149

**DECLARATION OF CLAES
LEWENHAUPT IN SUPPORT OF THE
COLLEGE DEFENDANTS' SPECIAL
MOTION TO STRIKE (CODE CIV.
PROC., § 425.16)**

HEARING:

Date: November 30, 2022
Time: 9:30 a.m.
Dept: 302
Judge: Hon. Richard B. Ulmer Jr.

Action Filed: October 4, 2022
Trial Date: None set

1 Hastings College of the Law; SIMONA
2 AGNOLUCCI, in her official capacity as chair of
3 the Board of Directors of Hastings College of the
4 Law; CARL ROBERTSON, in his official
5 capacity as vice chair of the Board of Directors
6 of Hastings College of the Law; SHASHIKALA
7 DEB, in her official capacity as a director of
8 Hastings College of the Law; MICHAEL
9 EHRLICH, in his official capacity as a director
10 of Hastings College of the Law; ANDREW
11 GIACOMINI, in his official capacity as a
12 director of Hastings College of the Law;
ANDREW HOUSTON, in his official capacity as
a director of Hastings College of the Law;
CLAES LEWENHAUPT, in his official capacity
as a director of Hastings College of the Law;
MARY NOEL PEPYS, in her official capacity as
a director of Hastings College of the Law;
COURTNEY POWER, in her official capacity as
a director of Hastings College of the Law;
ALBERT ZECHER, in his official capacity as a
director of Hastings College of the Law; and
DOES 1-25, inclusive,

Defendants.

DECLARATION OF CLAES LEWENHAUPT

I, Claes Lewenhaupt, declare as follows:

1. I make this declaration in support of the College Defendants' special motion to strike Plaintiffs' claims under California's anti-SLAPP statute. I am over eighteen and am otherwise competent to make this declaration. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently to that information.

A. My Service on the Board of Directors

2. I am the great-great-grandson of Serranus Clinton Hastings, who was California's first Chief Justice, its third Attorney General, and founder of UC Hastings College of the Law, which I will call the "College." My father, Jan Lewenhaupt, was Judge Hastings's great-grandson.

3. I recall learning as a young man that my older siblings and I were descendants of Judge Hastings. At the time, our connection to such a prominent figure in California's history was a source of pride.

4. I also learned as a young man that one of the seats on the College's Board of Directors, or the "Board," was reserved for an heir or representative of Judge Hastings. My father Jan held that seat for much of my life, beginning in about 1986. He took over that seat from Harry Hastings, my father's cousin and another great-grandson of Judge Hastings. I recall meeting Harry Hastings when I was a young man.

5. I enrolled in the College shortly after my father assumed the seat on the Board. At some point during my law school education, I began considering the possibility of taking over for my father on the Board in the future, should he choose to step down or otherwise vacate his seat.

6. I graduated from the College in 1989. After graduating, I joined the U.S. Army Judge Advocate General's Corps and served for 27 years.

7. Around 2006, after having served on the College's Board for twenty years, my father decided to step down. He approached the other Board members and suggested that I be appointed as his replacement. My father felt that because I was a practicing attorney and a proud alumnus of the College, I would be an asset to the Board. I understand that the Board members at the time agreed that my experience would be valuable.

1 8. On June 2, 2006, during a meeting at which I was present, the Board passed a
2 resolution appointing me as a Board member in replacement of my father. I have served on the
3 Board ever since. Throughout my service, I have worked hard to ensure that the Board is always
4 acting in the best interests of the College, its students, its faculty and staff, and its alumni, and in
5 consideration of both the present and future of the institution.

6 9. My time on the Board has been rewarding. Because I am only 59 years old and am in
7 good health, I have never considered retiring or otherwise vacating my seat. In that way, I take after
8 my father, who did not step down from the Board until after he was 90 years old.

9 **B. The Debate Surrounding the Hastings Name**

10 10. The latter period of my time on the Board has been marked by increased attention to
11 Judge Hastings's complicated legacy, and in particular his involvement in campaigns of violence
12 against indigenous communities in northern California, and the resulting debate about how the
13 College should account for that legacy going forward.

14 11. From the beginning of that process, my foremost interests have been in protecting the
15 College into the future and in reaching a resolution that helps the College and broader community
16 heal from the violence of the past. I was pleased, for instance, that Dean Faigman and the Board,
17 along with various faculty members, developed a variety of restorative justice measures aimed at
18 repairing the College's relationship with tribal leaders. I believed the most important thing was to
19 chart the best path forward for the College, one that would allow it to continue operating and
20 attracting talented students and faculty well into the future.

21 12. Initially, Dean Faigman did not recommend changing the College's name, and at the
22 outset that was my view as well. I initially thought that by pursuing restorative justice measures, the
23 College could move forward while still maintaining Judge Hastings's name, and in the process could
24 attempt to rehabilitate that name.

25 13. As the debate over the College's name continued to develop, however, my views
26 evolved. I reached the conclusion that it would be in the best interests of the College and key
27 stakeholders if the College were to change its name. As a public institution, the College relies on its
28 relationship to constituents and lawmakers. The College also depends on a steady stream of bright,

1 promising students who will follow in the footsteps of earlier classes and become leaders in their
2 communities. I concluded that a new name—one that forged a close connection between the College
3 and the San Francisco area in which it sits—would allow the College to continue to grow and prosper
4 into the future. And I thought that keeping the name posed too great a risk that the College would not
5 be able to grow, prosper, or attract the best legal minds.

6 14. I reached that conclusion after considering the views of those who wanted to keep the
7 Hastings name, including alumni who wanted to maintain a clear link to the place they went to law
8 school. Ultimately, I decided the benefits of a new name outweighed those concerns. I believed that
9 the considerable historical evidence that Judge Hastings was closely involved in atrocities against the
10 Yuki People created a stain on the College, and I felt the right thing to do was to move forward in a
11 positive direction with a new name.

12 15. Accordingly, when the Board considered the matter in November 2021, I voted in
13 favor of the resolution changing the College's name and authorizing the College's leadership to work
14 with state legislators and other stakeholders to make the corresponding amendment to the Education
15 Code. A true and correct copy of that resolution, dated November 2, 2021, is attached here as
16 **Exhibit 1**. The next month, the Board resolved to engage relevant stakeholders to consider a new
17 name for the school; I voted in favor of that resolution as well. A true and correct copy of that
18 resolution, dated December 14, 2021, is attached here as **Exhibit 2**.

19 16. My fellow directors and I engaged in an extensive deliberative process in which we
20 solicited the views of stakeholders including faculty, students, alumni, staff, and tribal leaders. We
21 also considered a report prepared by a special committee the Board convened to further review the
22 historical record and arguments of alumni who opposed the name change. A true and correct copy of
23 that report, which was presented to the Board on June 3, 2022, is attached here as **Exhibit 3**. After
24 reviewing that report, my fellow directors and I voted to reaffirm our resolutions from November and
25 December 2021 to remove Hastings from the College's name. A true and correct copy of the minutes
26 of the meeting reflecting that resolution are attached as **Exhibit 4**.

27 17. Ultimately, in July 2022, my fellow directors and I voted unanimously in favor of a
28 resolution changing the College's name to UC College of the Law, San Francisco and calling on the

1 Legislature to amend the Education Code to conform to the new name. A true and correct copy of
2 the minutes of the July 27, 2022 meeting reflecting that resolution are attached as **Exhibit 5**.

3 18. I continue to support the name change. To be sure, I felt some personal
4 disappointment in connection with the revelations about Judge Hastings's legacy. But above all, I
5 feel it is most important to find a way for the College to thrive in the community and grow for many
6 years to come, and I think the new name allows the College to accomplish that goal.

7 19. For similar reasons, I support the Legislature's decision to eliminate the hereditary
8 Board seat I have occupied since 2006. Serving on the Board has been an honor. I realize, however,
9 that for the College to move forward and disentangle itself from Judge Hastings's legacy, it is
10 appropriate to eliminate the Board seat reserved for his heirs or representatives. That will allow the
11 Board to continue to act as a representative body that is appropriately responsive to the interests of
12 the public.

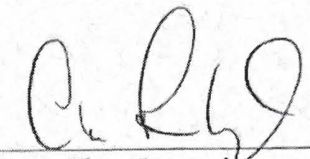
13 **C. This Lawsuit and the Defendant Plaintiffs**

14 20. I understand that this lawsuit is brought by an association of unidentified College
15 alumni as well as individuals who claim to be descendants of Judge Hastings: Stephen Hastings
16 Breeze, Stephanie Azalea Brackel, Catherine Torstenson, Scott Hastings Breeze, Collette Breeze
17 Meyers, and Colin Hastings Breeze.

18 21. Until November 2021, I was unaware of any of these individuals. To my knowledge,
19 prior to November 2021, these individuals never contacted me or otherwise interacted with the
20 Board, nor did any of them ever express any interest in the Board seat or in any other type of service
21 to the College.
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1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct.

3
4 Executed in BURKE, VA on this 2nd day of NOVEMBER, 2022.

5
6
7
8 
9 Claes Lewenhaupt

Lewenhaupt Declaration

Ex. 1

TWO MOTIONS OF THE BOARD OF DIRECTORS OF HASTINGS COLLEGE OF THE LAW

REGARDING THE NAME OF THE COLLEGE

Resolution Passed Unanimously November 2, 2021

Whereas the Hastings Board of Directors is the lawful governing body of Hastings College of the Law;

Whereas in 1878 Serranus Hastings contributed \$100,000 in gold coin to found the first law department of the University of California;

Whereas the California Education Code provides that the law school should henceforth be known as Hastings College of the Law, a department of the University of California;

Whereas Serranus Hastings promoted and funded genocide against members of the Yuki Tribe¹ and other Native Californians in Round Valley. It is a shameful legacy that demands not just contrition, but action;

Whereas beginning in 2017 the College, through the office of the Chancellor & Dean and the work of the Hastings Legacy Review Committee, identified the details of Serranus Hastings' crimes against Indigenous Peoples and sought ways to restore justice for those crimes;

Whereas in 2020 the Chancellor & Dean made recommendations to the Board of Directors regarding a path forward by which the College could work with the Round Valley Indian Tribes in general, and members of the Yuki Tribe in particular, to build trust and identify initiatives by which UC Hastings Law could partner with tribal members to build mutually beneficial initiatives;

Whereas the work of the Chancellor & Dean, together with the Restorative Justice Advisory Board, has had significant and worthwhile conversations with representatives of the Yuki people, which has resulted in several initiatives, including the creation of an Indigenous Law Center at UC Hastings, the identification of a commemorative space in which the Yuki have been invited to define the content, the identification of educational initiatives through which the law school could work with students in Round Valley in areas of the law, and others in development;

Whereas throughout the process of reconciliation between the College and members of the affected tribes, officials at the College understood that the name of the school was an abiding issue;

Whereas the College sought to define a comprehensive path forward with restorative justice as the ultimate objective, and recent events have placed the name of the College at the forefront;

Whereas the College continues to put substantive restorative justice efforts as the highest priority, and has concluded that confronting the issue of the Hastings name is vital to those efforts;

Whereas the Board does not have the authority to change the name of the College, which requires legislation;

Whereas, given the wrongful and harmful acts of Serranus Hastings that have been documented through the College's efforts, the Board believes that this great institution, with its proud 143-year history of excellence in the law, should not be associated with his name, therefore, be it

¹ The Yuki are also known as N'om, Powe' N'om, and Witukomno'm People of Eden Valley and Round Valley.

Resolved that the Chancellor & Dean will work with the California Legislature, the Governor's Office, and other offices to enact legislation changing the name of the school; and be it further

Resolved that the Chancellor & Dean shall continue to work in partnership with the Yuki people and the Round Valley Indian Tribes to pursue and accomplish restorative justice related to the acts of Serranus Hastings.

Lewenhaupt Declaration

Ex. 2

Resolution Passed Unanimously December 14, 2021

Whereas, on November 2, 2021, the Hastings College of the Law Board of Directors (the Board) directed the Chancellor & Dean to work with the California Legislature, the Governor's Office, and other offices to enact legislation changing the name of the Hastings College of the Law (the College); and

Whereas, the Board at that time also indicated that the Chancellor & Dean should engage in a deliberative process with the College community, members of the Round Valley Indian Tribes (RVIT), including Yuki Tribal members, also known as the N'om, Powe' N'om, and Witukomno'm People of Eden Valley and Round Valley, and others, regarding identification of a new name for the College; and

Whereas, since that date the Chancellor & Dean and other College leaders have discussed the renaming of the College with, and received name recommendations from, members of RVIT including Yuki Tribal members, faculty, staff, students and alumni of the College, representatives of the Governor's Office, members of the State Legislature, leadership of the University of California and others; and,

Whereas, name recommendations have included geographic names, a name commemorating the Yuki Tribe, and names of notable alumni and others; and

Whereas, under the California Education Code, "[t]he college is affiliated with the University of California, and is the law department thereof;"

Whereas, following from this deliberative process, the Chancellor & Dean has recommended that the College should be named geographically, specifically, San Francisco College of the Law, in conformance with the naming of other campuses of the University of California, of which the College by statute is and has been throughout its history an affiliate;

Whereas, since 2017 the College has been working collaboratively with the Round Valley Indian Tribes to promote efforts aimed at restorative justice, healing and reconciliation; and

Whereas, the Chancellor & Dean has further recommended that the College recognize and commemorate the Yuki Tribe, the RVIT and notable alumni through means other than the re-naming of the College; therefore, be it

Resolved that the Chancellor & Dean is directed to propose and seek consensus on "San Francisco College of the Law" as the new statutory name for the College in the College's further participation in the government-to-government discussions with the Tribal Council of the Round Valley Indian Tribes; and be it further

Resolved that the Chancellor & Dean shall continue to work in partnership with the Tribal Council of the Round Valley Indian Tribes, and those Yuki and other Tribal members designated by the Council, to pursue restorative justice related to the acts of Chief Justice Serranus Hastings.

Lewenhaupt Declaration

Ex. 3



UNIVERSITY OF CALIFORNIA
HASTINGS COLLEGE OF THE LAW

REPORT

To: The Board of Directors
cc: David L. Faigman, Chancellor & Dean
From: Chip Robertson & Albert Zecher
Date: June 3, 2022
Re: Re-Examination of Board's Decision to Pursue Renaming of the College

I. Introduction

On November 2, 2021, the Board of Directors of UC Hastings College of the Law unanimously voted to remove “Hastings” from the College’s name. The Board acted in recognition of the complicity of Serranus C. Hastings in the harms perpetrated against Yuki Indians in the Round Valley and Eden Valley region prior to his founding of the College.

Several alumni expressed disagreement with the historical basis of that decision, which was primarily drawn from work by Professor Brendan Lindsay commissioned by the College.¹ In recognition of the importance of thoroughly considering this important question, the Board asked us to serve as a Committee to further review Professor Lindsay’s analysis as well as the arguments of the alumni who disagreed with it. (We will refer to these individuals as the “correspondents.”)

The Committee examined Mr. Lindsay’s and the correspondents’ arguments² and is now issuing this report confirming that the historical record supports the conclusion that Judge Hastings

¹ Brendan Lindsay, *Serranus Clinton Hastings in Eden and Round Valleys: White Paper* (December 14, 2021) (hereinafter “White Paper”), available at https://www.uchastings.edu/wp-content/uploads/2022/01/Hastings-Legacy-Review_FINAL-1.pdf; Brendan Lindsay, Serranus C. Hastings *Rebuttal Talking Points and Timeline* (May 5, 2022) (hereinafter “Addendum”) (attached to this report).

² The Committee met with Professor Lindsay and asked questions regarding the basis for certain assertions contained in the White Paper. The Committee also asked Professor Lindsay to provide additional analysis that he believed was responsive to critiques of White Paper. Several correspondents requested to see Professor Lindsay’s response and then submitted their own further responses. The Committee received memoranda from Kristian Whitten, Class of 1973, on May 10, 2022 and from Stephen K. Easton, Class of 1970, the Hon. Richard Flier, Class of 1970, and Donald Craig Mitchell, Class of 1971 on May 11, 2022. These documents are attached to this report. We also benefited from other input from alumni, including Judge Flier’s comments at our March 10, 2022 Board meeting, Mr. Mitchell’s January 10, 2022 memo to Chancellor & Dean David Faigman, and various columns written by Mr. Whitten in the *Daily Journal*. We do not attempt in this report to address every matter raised by the

engaged in conduct that promoted and failed to stop the killings of Indigenous persons in Round Valley.³ The conduct of Judge Hastings is reprehensible and is properly the justification for the Board of Directors' decision to not continue to honor his legacy.

Certain key facts are not in dispute, particularly that the population of Yuki Indians in Round Valley was virtually extinguished as a result of White settlement in the second half of the Nineteenth Century, going from 6000 prior to 1848 to 168 in 1880.⁴ Nor has any of our correspondents disputed that a major element of this destruction was the fact that many Yuki Indians were killed by White settlers and severely abused by them in other ways.

Rather, the dominant theme running through the correspondents' arguments is that they believe the evidence does not support the conclusion that Judge Hastings knew of the atrocities committed by White settlers against the Yuki Indians, other than one set of killings by an employee of his. They emphasize that Judge Hastings offered a statement under oath (his deposition) averring to this during an 1860 state legislative investigation of the conflict between Whites and the Yuki Indians.⁵ Because of their conclusion regarding Judge Hastings' knowledge of the acts against the Yuki Indians, they believe that there is no reason to remove his name from the school.

We agree with the correspondents that there is no incontrovertible proof that Judge Hastings knew more than he acknowledged. However, we also find that, even accepting Judge Hastings' statement on the limits of his knowledge, he knew enough about, and was involved enough in, serious wrongdoing as to bear meaningful responsibility for it. In other words, even when Judge Hastings is given the benefit of the doubt as to his claimed level of knowledge, we conclude that he played a significant role in the grievous wrongs perpetrated against the Yuki Indians during this period.

We discuss two key areas of Judge Hastings' responsibility below. First, Judge Hastings employed a man, H.L. Hall, to tend his livestock in Eden Valley, even after learning the man had engaged in a mass killing of Indians in retaliation for livestock losses; and the man went on to commit an even more egregious massacre while still employed by Judge Hastings. Second, Judge Hastings was instrumental in creating and then supporting – financially and politically – a

correspondents; rather we focus on the historical question of Judge Hastings' responsibility for wrongdoing. The Board's view in forming this Committee was that this question could have a decisive bearing on whether the Board should maintain or revise its position on renaming the College.

³ We note that the Board does not sit as a court of law considering whether to hand down a criminal conviction against Judge Hastings. While, as discussed below, we do conclude that the evidence supports the conclusion that Judge Hastings was complicit in criminal acts against the Yuki Indians, the practical question for the Board is whether Judge Hastings acted in a manner that was wrong, from a moral point of view, such that our school should not honor him by bearing his name. Therefore, we have considered whether the evidence supports this conclusion as more likely than not, rather than applying the higher standard from criminal law.

⁴ White Paper at 55.

⁵ *Id.* at 58-59.

citizen militia, the Eel River Rangers, to a degree that he bears responsibility for the well-documented atrocities committed by this group.

II. The Historic record is replete with actions undertaken by Judge Hastings that supported, contributed to, and resulted in the killings of indigenous persons in Round Valley.

A. Judge Hastings' employee engaged in a mass killing of indigenous people to protect livestock and ranch land owned by Judge Hastings; and despite having knowledge of this killing, Judge Hastings failed to take any action to have his employee prosecuted for it, and in fact continued to employ him and permit him to remain as tenant on his lands. During that subsequent employment, this man engaged in another mass killing on Judge Hastings' behalf for which Judge Hastings must bear responsibility.

Judge Hastings said in his deposition that he retained H.L. Hall as caretaker of his livestock in Eden Valley starting in August 1858.⁶ Judge Hastings also acknowledged learning in January 1859 that Hall had killed 14 Indigenous men in retaliation for the killing of horses.⁷ This had occurred the day prior to Judge Hastings' arrival on a visit to Eden Valley in January 1859. Judge Hastings, however, said Hall had concealed the fact of these killings.⁸ Hastings said that he learned of them from his son, who shared the information while they were returning home from Eden Valley.⁹ This was the only one of the "outrages," to use his word, against the Yuki Indians that Judge Hastings said he knew about prior to the legislative investigation.¹⁰

⁶ *Id.* at 58.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* Hall described in his deposition this attack and the indiscriminate killing it involved, although he cites a lesser number of deaths. After learning that several horses had been killed by Indians, Hall and two other men approached a rancheria they believed was inhabited by those responsible. "We found some 18 or 20 Indians who ran as soon as they saw us. I think 8 or 10 were killed and the balance escaped." *Id.* at 60. They then killed one more Indian man who refused to leave his hut and attempted to shoot them with a bow and arrow, Hall said. *Id.* They set fire to his hut and then shot him when he emerged. *Id.* Thus, by his own description, Hall and his group simply killed the Indians based on their presence at this rancheria.

¹⁰ *Id.* at 59. One correspondent states that this information merely made Judge Hastings "aware that Mr. Hall had killed people who were believed to have rustled his cattle," but not of Hall's "killing Native Americans indiscriminately." See Flier, May 11, 2022, at 1. We do not agree, because Judge Hastings had every reason to understand Hall's killings here as indiscriminate and otherwise culpable.

As quoted above, the only facts Judge Hastings recounted were that Hall had killed 14 Indians at a camp where there were the remains of horses. Judge Hastings did not indicate that he had any information that showed Hall had somehow determined that all (or any) of these 14 men were involved in a theft of horses before killing the men, nor even that Hall killed the men after (rather than before) finding the carcasses. Nor did Judge Hastings indicate that he

Despite having learned of Hall's killing of 14 Indigenous men, Judge Hastings stated in his deposition, he continued to employ Hall through April 1859, and thereafter permitted Hall to remain a tenant farmer on his lands.¹¹ There is no evidence that Judge Hastings contacted law enforcement to report these killings that occurred on or near his land at the hand of his ranch caretaker.

This is significant not only because it indicates acquiescence to Hall's past conduct, but because Hall went on to commit another, apparently more grievous outrage in February 1859, again in retaliation for loss of livestock Hall was trying to protect. As Hall recalled at deposition, he discovered the destruction of livestock on the property and thereafter five men "...volunteered to go out with me and punish the Indians."¹² They followed a trail and "found the Indians."¹³ There were about 30 in this camp, and Hall's group killed eight men, while the rest escaped.¹⁴ However, Hall said they "found no evidence of stock having been killed in this camp."¹⁵ After following the trail further they found a camp with the remains of livestock, inhabited by three to four women and three to four children. When asked if he had seen any of the women killed, Hall at first declined to answer, but then said, vaguely, "I did not see any killed nor did I kill any of them. I saw one of the squaws after she was dead, I think she died from a bullet. I think all the squaws were killed because they refused to go further. We took one boy into the valley and the infants were put out of their misery and a girl 10 years of age was killed for stubbornness."¹⁶

In sum, as of January 1859, Judge Hastings had every reason to know that Hall was likely to kill large numbers of Indians on his behalf as part of Hall's work protecting Judge Hastings'

made further inquiry to determine anything more about the reason for Hall's actions – the presence of the carcasses appears to have been fully sufficient justification in his eyes for the killing of 14 men at the camp. This seems to us the definition of indiscriminate and wrongful killing. As noted above, Hall's own description of the event confirms it was as indiscriminate as Judge Hastings' uncomplicated description suggests. *Supra* n.9.

Incidentally, even making the fairly absurd assumption that Hastings imagined Hall had engaged in some kind of juridical fact-finding before killing the men at the camp with the horse carcasses, Judge Hastings knew Hall had no authority to convict others of the crime of theft, let alone to inflict capital punishment on them. (This was before Hall even served in the Eel River Rangers, so he was not cloaked under that particular authority of law.)

In sum, Judge Hastings' indication that he understood this set of killings by Hall to be related to the theft of horses by no means negates the fact this report provided Judge Hastings with the information that he was employing a man who engaged in large-scale, extra-legal, and indiscriminate killings as a means of retaliating for livestock theft.

¹¹ White Paper at 58. In contrast, Hall stated that he was still caring for Judge Hastings' stock in February 1860. *Id.* at 59.

¹² *Id.* at 60.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

livestock, yet Judge Hastings continued to employ Hall in that capacity. More losses occurred in February, and, predictably, Judge Hastings' agent committed more mass violence. Judge Hastings therefore, in our view, bears significant responsibility for Hall's February massacre.

B. Serranus Hastings promoted, requested the creation of, and provided material support to, the Eel River Rangers Militia, which engaged in the killing of indigenous persons in order to protect land and livestock owned by Hastings.

The correspondents do not dispute that the Eel River Rangers engaged in atrocities against the Yuki Indians, so we will not recount those. (We note that these atrocities were documented by an investigative committee of the State Legislature that stated in 1860, "Within the last four months, more Indians have been killed by our people than during the century of Spanish and Mexican domination,"¹⁷ and called the actions in Mendocino county "a slaughter."¹⁸) Rather, as noted above, the correspondents question whether Judge Hastings should be considered responsible for those atrocities in any way because they believe the evidence does not support the conclusion that he knew of the militia's actions. We, in contrast, think his deep involvement with the militia means that he bears meaningful responsibility even if it is true that he lacked actual or detailed knowledge of the militia's actions.

To begin, Judge Hastings was instrumental in the formation of this militia. He led the creation of petitions to the Governor to authorize the militia starting in April 1859 and personally wrote to the Governor to further encourage him.¹⁹ When the Governor issued in June a commission to form the militia to a man who expressed reluctance due to a belief he would not get paid, Judge Hastings offered to fund the company in advance of payment from the State.²⁰ That man still refused, so Judge Hastings called another meeting at which an alternative leader, Walter S. Jarboe, was elected as captain of the militia.²¹ Jarboe began leading militia expeditions against Indians in August 1859, killing, by Jarboe's own account, 16 Yuki Indians in one attack – apparently illegally, because this preceded his receipt of a commission from the Governor in September.²² According to a U.S. Army officer posted in the area, Jarboe and his men had killed 64 Indians by late August.²³

Judge Hastings supported the ongoing operations of the militia in meaningful ways. The company carried a letter from Hastings promising to reimburse those who supplied the militia.²⁴

¹⁷ *Id.* at 41.

¹⁸ *Id.* at 42.

²¹ *Id.* at 24.

²¹ *Id.* at 24.

²¹ *Id.* at 24.

²² *Id.* at 24-26.

²³ Addendum at 14.

²⁴ White Paper at 25; Addendum at 13

Judge Hastings wrote the Governor offering to supply ammunition to the militia.²⁵ Hastings also provided political support, writing to the Governor in October 1859 endorsing Jarboe and asking for the size of the company to be increased.²⁶ In February 1860, Judge Hastings wrote to the Governor to support the creation of a second militia in Round Valley, thus implying a belief that this was an effective and appropriate way to deal with the concern that Yuki Indians were killing settlers' livestock.²⁷

We believe the above facts describe a level of involvement by Judge Hastings with the Eel River Rangers that makes him in meaningful degree responsible for their actions. Advocating for the creation of a citizens' militia, "armed with Rifles and Revolvers," as the petition stated,²⁸ lacking substantial training or professional military leadership, to take to the field in a setting of high conflict, where the adversaries were less armed and regarded as having lesser rights than White people, was an endeavor predictably creating a high risk of gross abuse. Furthermore, by supporting the militia through a written guarantee of reimbursement to its suppliers; endorsing it to the Governor and encouraging the Governor to create a new militia in a neighboring region; and, if he followed through on certain statements, supplying it with funds and ammunition, Judge Hastings made himself an active sponsor of the militia's activities, with responsibilities for those activities. Either Judge Hastings did not concern himself with what the militia was actually doing, even merely to confirm that it was not engaging in mass violence – which his ongoing support for the militia clearly obligated him to do – or he knew and did not object. In either case, he is implicated in the militia's wrongdoing.

The correspondents' arguments do not reveal any new evidence that could support the conclusion that Judge Hastings' actions did not promote, support or contribute to the killing of Indigenous people in Eden and Round Valley by the Eel River Rangers. They contest the validity of Professor Lindsay's conclusion that Judge Hastings must have known about the Eel River Rangers' atrocities. They point to Judge Hastings' sworn deposition in which he denied such knowledge²⁹ and the absence of any direct proof to the contrary. Professor Lindsay, in contrast, points to the notoriety of the Rangers' conduct, which was covered not only in the California but also in the Eastern press;³⁰ the existence of one report from Jarboe to Judge Hastings on the militia's activities, suggesting there might have been ongoing reports³¹; his relationships with multiple members of the Rangers, including Hall and other employees or

²⁵ *Id.* at 12.

²⁶ *Id.* at 15. Notably, this endorsement occurred after Jarboe's company had operated illegally for about a month prior to the Governor's commission and committed at least one mass killing reported in *The Trinity Journal*, *The Sacramento Daily Bee* and *The Nevada Democrat*. *Id.* at 13-14.

²⁷ White Paper at 37.

²⁸ White Paper at 93.

²⁹ *Id.* at 59.

³⁰ Addendum at 3.

³¹ White Paper at 27.

former employees³²; and other factors. More broadly, Hastings had staked property and reputation on the standing up of the militia as a mechanism to defend his substantial Eden Valley land and ranching investment, and it seems likely that so ambitious and successful a businessman as Judge Hastings would therefore follow closely the militia's activities. We think Professor Lindsay makes the better argument.

We will not, however, further parse the historical record and the analyses made by both sides on this question. The discussion in this section should make clear why Judge Hastings, having helped start the Eel River Rangers and then supported their operations, must bear a meaningful degree of moral responsibility for their actions, whatever his level of actual knowledge of those actions, such that it is not appropriate for our law school to bear his name.

III. Conclusion

As discussed above, we believe the evidence clearly supports the conclusion that Judge Hastings acted wrongfully toward the Yuki Indians in ways that caused them grievous harm. He employed a man, H.L. Hall, after Judge Hastings admittedly learned that he knew that man had engaged in unlawful, mass killing of Yuki Indians, and that man engaged in further atrocities while still in Judge Hastings' employ, taken in furtherance of the interests of Judge Hastings. And Judge Hastings promoted the creation of, and then provided material support to, a militia, which itself engaged in atrocities against the Yuki Indians.

To be clear, we have recounted here only the conclusions that can be derived most directly from the undisputed historical record. We do not mean to suggest that we have concluded that what we describe here is the limit of Judge Hastings' culpability, for there is much beyond this that suggests further complicity and wrongful acts. Rather, we wanted to show that even interpreting the record in a manner highly favorable to Judge Hastings, including by crediting his own statements as the correspondents have done, the evidence still indicates that the school should not be named after Judge Hastings and that the Board should feel full confidence in affirming its prior decision.

Addendum: The Procedural Validity of the Board's Prior Resolutions

While our charge from the Board was to address the factual basis for its understanding of Judge Hastings' actions, we want to address one further matter raised a correspondent, the claim that the Board's decision to rename the school is marred by procedural errors.³³ We disagree.

³² Addendum at 2.

³³ Flier, *supra* n.2.

First, this correspondent notes that the Board did not follow University of California rules regarding renaming. The College is governed by its Board of Directors, not the University of California Board of Regents, though we are an affiliate of the University with many important connections. The College is not subject to internal administrative procedures of the University, nor does the University purport to make such rules for the College.

Second, this correspondent claims the College “did not follow its own procedures” in calling an emergency meeting on November 2, 2021 and documenting the factual basis of that emergency.” This is incorrect. The meeting was a “special meeting,” as defined in California Government Code 11125.4, which was permitted to be called on less than 10 days’ public notice. The agenda for that meeting stated as follows:

Government Code 11125.4(c) requires that to have a special meeting the Board must find that the delay necessitated by providing 10 days’ prior notice as is normally done would cause a substantial hardship to the College or that immediate action is required to protect the public interest. In this case, it is proposed that a substantial hardship would be caused because legislation is already being prepared relating to the name of the College, and it is necessary for the Board to consider this subject so that the College can engage constructively in the legislative process.

This was approved unanimously by the Board, as required. It was the Board’s view that the Chancellor & Dean needed direction from the Board immediately to be able to represent the College in legislative discussions that had already begun. The Board then unanimously voted that the name Hastings should be removed from the school.

Furthermore, even if it were correct that the November 2 meeting was somehow invalid, the issue would be moot. The Board met again on December 14, 2021, after providing the standard 10 days’ notice, and ratified the November 2 action by unanimously passing another resolution identifying San Francisco College of the Law as its choice of a new name. Thus, even if the Board’s action on November 2 were somehow deemed to lack authority, the Board took equivalent action at its December 14 meeting.

The issue is moot for another reason. This report and the process it documents shows the Board’s genuine willingness to reconsider the action it (lawfully and properly) took on November 2 and December 14 based on input from community members. The public, including our alumni, have had far more than 10 days’ notice – over half a year, in fact, since November 2, 2021 – to consider the Board’s decision and, for those who disagreed, to mount their objections. The materials received from the correspondents are far more thorough than anything they could have produced in a 10-day notice period, and those materials are receiving thoughtful and full consideration by the Board through this review process.

Lewenhaupt Declaration

Ex. 4



Board of Directors Quarterly Meeting (OPEN Session) Minutes

University of California Hastings College of the Law
June 3, 2022

200 McAllister Street, 2nd Floor, Alumni Reception Center, San Francisco, CA 94102. Participants and members of the public were also able to join the open session via the web link or dial-in numbers listed in the public notice of this meeting linked here: <https://www.uchastings.edu/our-story/board-of-directors/board-meeting-notice-agendas-and-materials/>.

1. Roll Call

The Chair called the meeting to order at 9:04 a.m., and the Secretary called the roll.

Directors Present

Director Chip Robertson, Chair
Director Simona Agnolucci, Vice Chair
Director Shashi Deb
Director Michael Ehrlich
Director Andrew Giacomini
Director Andrew Houston
Director Claes Lewenhaupt
Director Mary Noel Pepys
Director Albert Zecher

Directors Absent

Director Courtney Power

Staff Participating

Chancellor & Dean David Faigman
Chief Operating Officer Rhiannon Bailard
General Counsel & Secretary John DiPaolo
Chief Development Officer Eric Dumbleton
Dean of Students Grace Hum
Executive Director, UC Hastings Alumni Association Meredith Jaggard
Assistant Dean of Career Development Office Amy Kimmel
Assistant Chancellor & Dean/Chief of Staff to the Chancellor & Dean Jenny Kwon
Director of Diversity, Equity & Inclusion Mario Lopez
Chief Communications Officer Elizabeth Moore
Provost & Academic Dean Morris Ratner
Chief Financial Officer David Seward
Deputy General Counsel Laura Wilson-Youngblood

Others Participating

Steve Brown, Yuki Committee President

Jack Grimm, ASUCH President

Dennis Prescott, BWF

Assemblymember James Ramos

James Russ, Round Valley Tribal Council President

2. Approval of meeting minutes:

2.1 Special Board Meeting 12.24.2021

2.2 Special Board Meeting 2.28.2022

2.3 Quarterly Board of Directors Meeting 3.10.2022

Motion:

The Chair called for a motion to approve all minutes presented.

Motion made and motion seconded. The motion carried.

3 Informational Consultation on UC Hastings Name

3.1 Overview of UC Hastings leadership engagement with RVIT and Yuki Committee

Dean Faigman welcomed everyone to the meeting and thanked them for coming. He thanked Assemblymembers Ramos, Ting and Haney and Senators Umberg, Weiner, and Hertzberg for their partnership. He also thanked the University of California Office of the President and President Drake. He thanked RVIT President Jim Russ and Yuki Chairman Steve Brown.

3.2 Report of RVIT President James Russ, Yuki Committee Representative Steve Brown, & Assembly member James Ramos

Assemblymember Ramos had not yet arrived, so Dean Faigman introduced Assemblymember Phil Ting to lead off the report. Assemblymember Ting said that he is honored to be here and congratulated Dean Faigman and the Board for their hard work. He said that the legislation regarding the College's name change has passed the Assembly, and he is optimistic that resolution will be reached by the end of August. He noted that August is the deadline for passing legislation, then the Governor has until the end of September to sign the legislation that was passed. He also said that the community needs history to be taught, restorative justice, and a new name. He thanked the College, the Board, and everyone involved for all of their hard work. Dean Faigman invited other California elected officials who wished to speak, and there were none. Assemblymember Ramos joined the meeting.

Dean Faigman invited President Russ to begin. Mr. Russ thanked everyone for having him, and thanked the Creator for bringing us all together today. He noted that there is a lot of work to do moving forward. He also gave historical background of the Round Valley Indian Tribes (RVIT), which is the federally recognized tribal entity in Round Valley. The Reservation was established by executive order, and comprises approximately 32,000 acres. The Reservation is located at the northern end of Round Valley and reaches up into the hills. The land is checkered rather than contiguous because of legislation that broke up the Reservation during a time when the U.S. government allowed people to come in and claim reservation land by claiming that the tribe was not using it. RVIT adopted its own constitution in 1936 and has its own separate government-to-government relationship with the United States. He also noted distinct eras in which the U.S. government was encouraging termination and dissolution of reservations. Today, those atrocities are real to the Tribe and its people. These issues affected their grandparents and remain very real to them today. Mr. Russ noted good but difficult discussions with Dean Faigman and former Yuki representative Mona Onedson. He referenced a speech with an historic apology from the Bureau of Indian affairs, which started by asserting that no one here actually did this, which is true in this case as well, but it did happen to their people. He said this is not just about a name change; they have a story to tell. He thanked everyone for their engagement in the process and for restorative justice efforts, too.

3.2.1 History and current status of the RVIT and Yuki People

Mr. Steve Brown, President of the Yuki Committee, provided information about the Yuki people, who are unique to North America. He said that they were first people to inhabit North America with their own language, and that archaeologists estimate that the population goes back more than 13,000 years. Now there are no fluent Yuki language speakers. He wants to bring the language back and revive the Yuki culture. This includes renaming Hastings “Powe N’om”, meaning “one people”, in honor of the Yuki. He noted that these are unifying words, and he thinks people will be curious about the origins of the name when they hear it, which will help revive the Yuki language and culture. The language is needed to understand the traditional songs, dances, ceremonies and prayers. Mr. Brown said that he wants to continue restorative justice initiatives that are already in the current draft of the bill and would like to discuss a possible museum, scholarships, pro bono work, and other initiatives.

Tribal members have legal issues with land, timber, and technology. He said that the Yuki population was once 20,000 but was reduced to 30 as a result of the atrocities committed. This happened to other tribes, too, but he said that only the Yuki were in the Round Valley at that time. No justice has ever been received for these crimes. San Francisco began as Mission San Francisco in the 1700s. The Spanish claimed all land as their own and tried to convert Native Americans to Catholicism. If they resisted, they were tortured and killed. He indicated that replacing one bad name with another is not a good idea.

3.2.2 Update on the work done so far on AB 1936

Dean Faigman gave an update. Over the past few months, he has worked to write AB 1936 with Assemblymember Ramos, with input from the RVIT and Yuki Committee. The Bill provides that the Board of Directors will make a recommendation on the final name to the legislature following full and robust consultation with the RVIT and Yuki Committee. This meeting kicks off that consultation process. Assemblymember Ramos drafted the Bill with Assemblymember Ting to bring consensus on what is happening with this issue. There have been a number of meetings between the assemblymembers and Dean Faigman and the RVIT and Yuki representatives. The Bill strikes out the name “Hastings”, includes “College of the Law” and says that future changes to the name are to be done in consultation with RVIT and a representative of the Yuki Committee. Assemblymember Ramos wants to get this historical trauma on record. He thanked Dean Faigman and the Board. The Board thanked Assemblymember Ramos.

3.2.3 How do we move forward -next steps

Dean Faigman thanked everyone for speaking. He went around the table and asked everyone to introduce themselves. He then invited assemblymember Ramos to speak.

3.3 Support of the California State Legislature – AB 1936

Assemblymember Ramos said that Dean Faigman and others at Hastings worked hard on restorative justice line by line in the bill. Assemblymember Ramos noted that it is important that Yuki and Native American tribes are at the table and included in the conversation. Atrocities are very real to Native Americans. He thanked President Russ and President Brown for expressing where they are today. The Chair thanked Assemblymember Ramos and opened up the floor to Board members with questions or comments. President Brown said that he

appreciates being invited, but reiterated that further conversation is necessary. The Chair said that there will be a series of meetings over the coming months with a subgroup of the Board and RVIT, Yuki Committee, and legislature. Director Giacomini thanked President Brown and President Russ for coming and sharing their stories. Director Zecher echoed comments and thanked everyone present for their partnership. Director Robertson echoed those comments on behalf of the Board, wants to be inclusive and have collaboration to move forward. Director Agnolucci thanked everyone for their time and noted that this is a learning opportunity for her and the Board, and she appreciates the opportunity to meet face to face and hopes we can continue to do that.

3.4 Questions, discussion, and conversation about future meetings with the Board of Directors

None.

4 Public Comment Period

The Chair invited public comment, noting that each commenter would have two minutes to speak in accordance with the time limit provided in the meeting agenda.

Reichi Lee - Hastings class of '03, spoke in favor of renaming the College with a name put forth by Yuki descendents.

Joe Rodriguez - Hastings class of '91, spoke in favor of removing the Hastings name from the College and replacing it with Powe N'om. He also encouraged the College to adopt an endowed chair in Indian law.

Deb Hut – Yuki representative, offered to send the Board a document on restorative justice and a handout on trauma and tribal sovereignty. She thanked the Board for the opportunity to meet today. The Board requested that she send the documents to the Hasting General Counsel so that he can distribute them, and looks forward to reading them.

April McGill – Yuki descendent, San Francisco resident, spoke in favor of changing the name of the College to a Yuki name for purposes of community healing. She thanked the Board for their time and for listening.

Michelle Downey - Round Valley Tribal Council member and Yuki descendant, she thanked everyone for the time to speak today. She said that education is important, and

she hopes that the College will let the Yuki have a say in the new name so that they and their children can start to heal.

Richard Flier - Hastings class of '71, spoke in opposition to a name change for the College.

Scott Breaves - direct descendant of Serranus Hastings, spoke in opposition to a name change for the College.

George Bisharat – Hastings Professor, encouraged the College to honor the request of the Yuki.

Louisa Petteroncelli – spoke in support of the Yuki people and their request to rename the law school.

Nicole Whipple - RVIT member, thanked the College for acknowledging the Yuki People, and spoke in favor of the name UC Powe N'om College of the Law for the College.

Mona Ondesan - Yuki member of RVIT, said that she hopes the Yuki are involved in restorative justice going forward and said that she does not feel that their input has been incorporated into restorative justice.

Linda Stacks - RVIT administrator and Cherokee member, spoke in support of the Yuki and thanked the Dean and the Board for undertaking this process as an institution.

Kris Whitten - Hastings class of '83, spoke in opposition to a name change for the College.

Catalina Malonzo - Hastings class of '81, spoke in support of the name change proposed by the Yuki. She asked whether the College has apologized to the Yuki and whether Native Americans will be allowed to study law at Hastings for free under the new UC program.

Morning Star Dali – RVIT member, said that Native Americans have the right to participate in decision making matters affecting their rights and encouraged the Board and the College to continue to listen to and work with the Yuki.

Paul Lauren – Hastings class of '88 and member of the Hastings Legacy Review Committee, said that he thinks the Board has been ill-served with respect to the name change issues and that the Hastings Legacy Review Committee was misinformed.

Lisa Galley - Tribal member, spoke in support of the Yuki and their proposal to change the name of the College to Powe N'om.

Stephen Easton – Spoke in opposition to a name change for the College and in favor of restorative justice efforts.

Shelly Rosenfeld – Hastings class of '10, spoke in support of the the law school changing its name to UCSF Law School or UCSF College of the Law.

The Chair invited Assemblymember Ramos to offer closing comments and thanked all of the speakers for their time. Assemblymember Ramos thanked the Board and all present for their willingness to sit down at the table and noted resounding consensus that restorative justice needs to happen. This is a chance to show the world and the rest of California that including Native People in the dialogue yields positive outcomes. AB 1936 is moving forward in the Senate with Senators Umberg and Weiner as co-authors with the input of RVIT and Yuki representatives, which will set the tone and model for others in California. He looks forward to continuing this dialogue. The Chair thanked him for his comments and leadership.

Director Agnolucci thanked everyone and acknowledged the diversity of opinion. She thanked everyone for their cordiality and respect despite the differences of opinion expressed and welcomes further communication.

Director Giacomini said he does not know whether there has been an apology from the College, but speaking personally as a California resident, he offered an apology to the Native People of California. He appreciates that his opportunities and privilege come from that history and knows that he needs to do something about it. Assemblymember Ramos said there needs to be a subcommittee to plan and move forward with the consultation process. The Chair indicated that the Board intends to identify representatives of the Board and then coordinate with Assemblymember Ramos shortly.

The Chair called for a short break in the meeting. The meeting reconvened at 10:45 a.m.

5 Report of the ASUCH President

Jack Grimm, the incoming ASUCH President, introduced himself to the Board. He said that the past two years of law school have been challenging for himself and for many students given COVID-19 pandemic circumstances and the significant political divisions and polarization across the country. He noted that the Hastings class of 2023 has enjoyed only one semester of uninterrupted in-person learning since starting at Hastings in fall of 2020. He said that Hastings students have been dealing with issues of free speech, inclusivity, and campus culture, which at times prove deeply divisive. His goal this summer is to meet with student leaders of all organizations on campus to determine their goals for the coming year and how ASUCH and the College can assist them in meeting those goals. He thanked the Board for the opportunity to speak with them. The Board congratulated Mr. Grimm on his new position and looks forward to working with him.

6 Report of the Board Chair:

6.1 Report of the Chair of the Educational Policy Committee

6.1.1 Informational Items:

6.1.1.1 Employment Update

Dean Ratner presented a summary of the written report. He said that employment of graduates 10 months out from graduation is 93 percent, which is a high since the College began reporting these numbers in 2014, and 80 percent are employed in bar-required or JD advantage positions. A new graduation requirement is engagement with the Career Development Office (CDO). Dean Ratner noted that in response to feedback from the Board, CDO has developed a contingency planning program for graduates that aims to help them plan for career goals and opportunities given market conditions.

6.1.1.2 Bar Success

Dean Ratner presented a report of the February 2022 bar outcomes, which align with expectations and are consistent with metrics in recent years. He said that the written report provides detail on the summer 2022 bar support available to graduates.

6.1.1.3 2023 Law School Rankings Analysis

Dean Ratner noted that there is an analysis included in the written materials that goes into detail with respect to metrics that impact US News rankings, which are tied strongly to allocation of

resources. He also presented historical rankings information and rankings with respect to different metrics since 2005. Dean Ratner noted that risk factors with respect to ranking include class size and decreases in funding allocations. The Board asked whether US News surveys students, and Dean Ratner responded that they do not. He said that the surveys include senior deans and certain professors at each law school. The law schools do not know which lawyers and judges will be surveyed. The Board asked how much information the survey responders receive about the College. Dean Ratner indicated that the College has a robust communication strategy to reach responders. The Board also asked about the College's placement success metric, which is a low outlier with respect to the College's overall ranking. Dean Ratner responded that the College's ranking would have improved by two points if it had employed 12 more graduates in the previous year. Dean Kimmel said that the College sends out a survey regarding employment just before graduation and continues to follow up and work with graduates through the March 15 deadline. She also noted that the statistics reflected in the US News rankings are delayed by two years, and not the most recent metrics. Only 10 graduates were unknown with respect to employment. The Board asked about allocation of resources in the Long-Range Campus Plan and whether that is included in resources allocation for purposes of the rankings. Dean Ratner indicated that it is, and that the College is already very highly ranked on that metric. The Board asked about diversity of students and faculty in US News rankings. Dean Ratner said that Hastings does very well on that metric, but it is not included as a metric within the rankings. Vice Chair Agnolucci encouraged new Board members interested in this topic to attend the Educational Policy Committee meetings.

6.1.1.4 New Centers

Dean Ratner rested on the written report.

6.1.1.5 Campus Climate Advisory Committee

Dean Ratner rested on the written report.

6.1.1.6 End-of-Year Reporting on March 2020 Strategic Plan Implementation

Dean Ratner rested on the written report.

6.1.2 Action Items:

6.1.2.1 New Faculty Hires; Faculty Transitions

Dean Ratner said that he is seeking approval for the fourth new faculty hire this year for appointment with tenure in accordance with Standing Order 101.1(a). The appointee will head the College's Center for Negotiation and Dispute Resolution.

Motion:

The Chair called for a motion to approve appointment with tenure for Hiro Aragaki.

Motion made and motion seconded. The motion carried.

6.2 Report of the Chair of the Advancement and Communications Committee¹

6.2.1 Report on Advancement

6.2.1.1 Comprehensive Campaign: Phase I Report

Mr. Dumbleton introduced Dennis Prescott from the College's fundraising consulting firm, BWF. Mr. Dumbleton and Mr. Prescott have been working together for nearly a year on Phase 1 of the College's capital campaign. Mr. Prescott presented findings from Phase 1 of the capital campaign, which support a College fundraising goal of at least \$100 million. He provided an overview of the Phase 1 process and timeline, noting that BWF undertook a comprehensive assessment of the Development office in fall 2021. That review was completed at year-end 2021 and the results provided to Dean Faigman and Mr. Dumbleton in February 2022. After that, BWF undertook an external interview phase, which brings us to the report today. He indicated that timing for a Phase 2 principal and leadership gift phase was slated for FY 2023, in which the College would ideally secure at least \$60 million over an approximately three-year quiet phase. BWF recommends that at least 60 percent of the fundraising goal be secured before the campaign is publicly launched and anticipates that the campaign will take two additional fiscal years after public launch.

¹ This item was addressed out of order, immediately following item 4, Report of the ASUCH President.

Mr. Prescott said that giving to Hastings has an upward trend and that the Development office has proven the ability to close gifts in the ranges that are necessary to raise \$100 million. BWF conducted a wealth screening which shows that more than 25 individuals have capacity for the eight figure gifts that are likely necessary for this campaign goal to be reached. The analytics team also showed that the \$100 million goal is accessible. There is a high degree of confidence in leadership, and there is a good deal of alignment between what people say that are willing to give and what the Development office anticipates they might give. He reviewed five areas that BWF reviews in its consultant work: case, leadership, prospects, readiness and environment, as well as findings for each with respect to Hastings. He also reviewed the volatile financial market's potential implications on giving, which tends to be short term and not to affect major gifts. He also reviewed identified prospects and trends in gift giving.

He also discussed development of a campaign theme, logo, and website once the campaign moves into its public phase. He also recommended recruitment of a volunteer campaign steering committee. He will be working with Mr. Dumbleton to establish a campaign plan.

The Board asked questions regarding the wealth screening of participants and the impact of an economic downturn. With respect to the latter, Mr. Prescott reiterated that it tends to be short-term and not to affect large gifts. With respect to the former, Mr. Prescott said that it included individuals based on information available in public records, and invited the Board to supplement that list with any individuals they know whom the College should be strategically approaching. The Board requested a copy of the full BWF report and a report in detail to the Advancement Committee. The Board asked for access to the alumni database so that they can search and help facilitate contact with Hastings. Mr. Dumbleton agreed and said that he and Ms. Jaggard have been working on establishing such an alumni database. He said that the Development office has an internal database that is regularly updated and that it uses to track donors. The Board requested access to the database. The Board also asked about the finding that a name change would not be an impediment to giving and asked further about the implications of different naming decisions facilitating gifts. Mr. Prescott said that no one

had indicated that if a particular name is chosen, they would be more likely to give, but that this has not been studied in depth. Mr. Dumbleton said that feedback regarding naming is varied and that people will have different opinions regardless of the ultimate outcome, and that most people who threaten never to give again based on the name have never given a gift to the College at all.

The Board thanked Mr. Prescott and Mr. Dumbleton for their work and for this well thought out process.

6.2.1.2 FY22 Fundraising Update

Mr. Dumbleton rested on the written report

6.2.1.3 Alumni Engagement Update

Ms. Jaggard rested on the written report.

6.2.1.4 Class of 1996 Student Video Competition

Mr. Dumbleton rested on the written report.

6.2.2 Report on Communications

Ms. Moore did not give an oral report, having ceded her time in the agenda to Mr. Dumbleton.

7 Report of Special Committee to Examine Historical Basis for Seeking a Name Change for the College

Director Zecher presented the report of the Subcommittee and an overview of the charge of the Subcommittee. He said that the Subcommittee was charged with review of the historical record based on objections the College received from certain alumni with respect to the decision to remove Hastings' name. These alumni said that the decision did not take into account Hastings' 1860 testimony in front of the legislature that he was not directly involved. The Committee provided this feedback to Brendan Lindsay for his review and input, and also reviewed the historical record itself. They sought to answer two questions: (1) When did S.C. Hastings first learn of the killings of the Yuki People and (2) What actions did he take that may have caused, contributed to, or failed to stop the killings. They reviewed three historical records, those of the January 1859 and February 1859 attacks by H.L. Hall on the Yuki, and Hastings constitution of the Eel River Rangers. H.L. Hall was S.C. Hastings' employee. The February 1859 attack included murder of infants and children. Prior to that point Hastings should have referred Hall to law enforcement, based on Hastings' admitted knowledge of Hall's prior killings, but he did not. Hastings offered to advance fund the Eel River Rangers and provide them bullets. They murdered Yuki Indians, and Hastings asked the Governor to expand the Eel River

Rangers. The Committee concluded that the historical record supports the conclusion that S.C. Hastings, more likely than not, was complicit in wrongful and harmful acts against the Yuki People such that he does not deserve to continue to be the namesake of the College. The resolution presented was modified slightly to continue to include the description of S.C. Hastings' acts as genocide based on the report of the Yuki representatives at this meeting.

Motion:

The Chair called for a motion to adopt the following resolution reaffirming the Board's decision to decouple the name Hastings from the College, as modified at this meeting.

"WHEREAS on November 2, 2021, the Board of Directors (the Board) unanimously voted to remove the name "Hastings" from the College's name because of wrongful and harmful acts committed by Serranus C. Hastings against the Yuki People, also known as the N'om, Powe' N'om, and Witukomno'm People of Eden Valley and Round Valley; and

WHEREAS on December 14, 2021, the Board unanimously affirmed that decision; and

WHEREAS, several alumni have contended that the historical basis for the Board's decision was inadequate; and

WHEREAS, those alumni expressed that view in public comment at the Board meeting of March 10, 2022; and

WHEREAS, the Board considered it imperative that the views of those persons be fully heard and considered; and

WHEREAS, the Board therefore determined on March 10, 2022 that a special committee should be constituted to consider the questions raised by these persons (the Committee); and

WHEREAS, the Chair appointed Director Albert Zecher and himself to serve on this committee; and

WHEREAS, the Committee received clarification regarding the questions raised by these alumni from Professor Brendan Lindsay, who previously drafted the White Paper that informed the Board's original decisions; and

WHEREAS, the Committee also received memoranda from several alumni responding to Professor Lindsay's analysis and further expressing their views; and

WHEREAS, the Committee considered all these materials; and

WHEREAS, the Committee determined that the historical record supported the Board's earlier conclusion that Judge Hastings promoted and funded wrongful and harmful acts against the Yuki Indians of Eden Valley and Round Valley. His conduct caused, contributed to, and failed to stop the killings and other atrocities against the Yuki People, such that he should not be honored as the namesake of the College; and

WHEREAS, the Committee so reported to the Board; now, therefore,

BE IT RESOLVED that the Board accepts and adopts as its own the report of the Committee, and be it further

RESOLVED that the Board re-affirms its decisions of November 2, 2021 and December 14, 2021 to remove Hastings from the College's name; and be it further

RESOLVED that the Board expresses its sincere appreciation for the thoughtful engagement of those individuals who provided materials for consideration in this process. "

Motion made and motion seconded. The motion carried.

8 Action Item: Finance Committee Consent Calendar

Motion:

The Chair called for a motion to approve the consent calendar.

Motion made and motion seconded. The motion carried.

8.1 Approval of the 2022 Audit Plan

8.2 Auxiliary Enterprises Proposed Budget 2022-23

8.3 State Contracts and Grants in Excess of \$100,000

8.3.1 Renewal of Legal Research Software - Lexis Nexis

8.3.2 MSL/LLM/CSL Digital Marketing - MF Digital Marketing

8.3.3 Sidewalk Services - Urban Alchemy - Tenderloin Community Benefit District

8.3.4 Audit Services - Moss Adams

8.3.5 CNDR Training Program - California Labor Commission

8.3.6 Accommodated Final Exams - Lease Rental & Equipment - CORT

8.3.7 Bloomberg Industry Group License Agreement – Bloomberg

8.3.8 Renewal of Software Support Services – Library/IT – Ellucian

8.3.9 Renewal of UCSF Security Guard Agreement- UCSF

8.4 Nonstate Contracts and Grants in Excess of \$100,000

- 8.4.1 CEQA Environmental Review - LRCP - Placeworks
- 8.4.2 Design Services - LRCP - Page Southerland Page, Inc
- 8.4.3 Student Housing Marketing Services – LRCP – Scion Group
- 8.4.4 Legal Education in Kosovo – Classroom – U.S. Department of State
- 8.4.5 Legal Education in Bosnia & Herzegovina – Classroom– U.S. Department of State
- 8.4.6 Legal Education in Serbia – Classroom – U.S. Department of State
- 8.4.7 Legal Education Institutions in Ghana – Classroom – U.S. Department of State
- 8.4.8 Statewide Dementia Awareness Project – Consortium – Sub-award from UCSF
- 8.4.9 Technical Assistance - SF Immigrant Legal Defense Collaborative– CGRS
- 8.4.10 Commercial Lease Amendment – Philz Coffee

8.5 Fund Transfer – Wells Fargo Bank to General Endowment Pool

8.6 UC Hastings Parking Garage – Rate Increase for 2022-23

8.7 Nonstate Budget Changes 2021-22 –Dean’s Discretionary Accounts

8.8 Fiscal Operations Policies and Procedure Manual - Updates

9 Report of the Chief Financial Officer

9.1 Long Range Campus Plan

Mr. Seward said that Ms. Bailard presented a full report at the last Finance Committee meeting. He asked if the Board had any questions. There were none, so he rested on the report.

10 Report Items: Finance Committee Reports:

Mr. Seward invited questions on the written reports. There were none.

- 10.1 Investment Report as of March 31, 2022
- 10.2 Cyber Audit Special Engagement with Moss Adams
- 10.3 Review of Unrelated Business Income Tax
- 10.4 State Budget Report for 2021-22 as of March 31, 2022
- 10.5 Auxiliary Enterprises Budget Report as of March 31, 2022

- 10.6 Long Range Campus Plan - Project Overview
- 10.7 Overview of California Environmental Quality Act (CEQA) Review of Unite Here/Local 2 Site at 210-247 Golden Gate Avenue
- 10.8 State Budget Update for 2022-23
- 10.9 Report on UC Hastings Art Installations – Ripples Program
- 10.10 Listing of Checks and Electronic Transfers over \$100,000

11 Report of the Chancellor and Dean

Dean Faigman commented on the polarization and divisiveness surrounding political issues evidenced by the controversy about the Federalist Society event this past transfer? spring, and the College's efforts to encourage community cohesion. He said that Assemblymember Ramos has already contacted him about organizing the next meeting regarding the name change. Dean Faigman presented on COVID-19 issues, noting that the College continues to monitor conditions closely and has adopted a summer policy that tracks current public health guidance. Dean Faigman said that this year's class size will be about 400 with anticipated melt to 390. The Board discussed class size and encouraged the College administration to devote resources to support the larger classes. Mr. Seward said that a smaller class size would yield difficulty with respect to tuition discounting, and the analysis completed shows that significant reductions in staff and faculty would be necessary to reduce class size. Mr. Seward gave credit to the Enrollment team and Development team in preserving the 30 percent discount rate. Dean Faigman indicated that the great resignation hit the College among mid-level staff, who left for issues mostly related to pay and quality of life.

Mr. Lopez reported DEI initiatives. He said there had been a campus-wide pronoun training. There have been 11 first-generation workshops since the First-Generation Program launched. He said that the program just had its Apple mock interview event and thanked Dean Kimmel for her partnership. He also thanked Senior Assistant Dean of Enrollment Management June Sakamoto for all of her efforts in enrollement. He said that there will be a campuswide DEI town hall. The Board congratulated Mr. Lopez on these initiatives. Dean Faigman mentioned diverse faculty hires this year in the context of student issues regarding the Federalist Society speakers and general discord. The College is reviewing the Campus Climate Advisory Committee report and will hold a town hall in the fall to help develop community cohesion. The Board asked about diverse faculty hires, and Dean Ratner responded that the individuals hired include Thalia Gonzalez, Jen Oliva, and Ming Chen. The Board encouraged the College to work on supporting and keeping those diverse faculty once they start at Hastings.

12 Report of the General Counsel & Secretary: Election of the Chair and Vice Chair of the Board

The Chair thanked everyone, and nominated Director Simona Agnolucci as the next Chair of the Board of UC Hastings. Her nomination was seconded. Prior to voting, Mr. DiPaolo invited other nominations. There was none.

The Secretary called for a vote on the election of Director Agnolucci as Chair of the UC Hastings Board of Directors for 2022-2023.

All Board members voted in favor, and the Secretary announced Director Agnolucci was elected Chair.

Director Zecher nominated Director Robertson to serve as the Vice Chair of the Board next year, after inquiring with respect to allowable officer positions in the By-laws. The nomination was seconded. The Board invited other nominations. There was none.

The Secretary called for a vote on the election Director Robertson as Vice Chair of the UC Hastings Board of Directors for 2022-2023.

All Board members voted in favor, and the Secretary announced Director Robertson was elected Vice Chair.

Chair Agnolucci said that Vice Chair Robertson has been a great role model and leader in these times. Vice Chair Robertson indicated that the highlight of his time as Chair has been welcoming new members. They both thanked everyone.

13 Director Comments and Board Announcements

None.

14 Adjournment to Closed Session

The meeting adjourned to closed session at 12:13 p.m.

15 Adjournment

Open session reconvened at 12:34 p.m. The Dean reported that in closed session the Board approved the Margaret Wood '73 endowed scholarship and that the Board approved the recommended salary increases for the Chief Financial Officer and General Counsel.

The Chair adjourned the open session at 12:34 p.m.

Respectfully submitted,

John K. DiPaolo, Secretary

Lewenhaupt Declaration

Ex. 5



Special Meeting of the Board of Directors

Minutes

July 27, 2022

University of California Hastings College of the Law
200 McAllister Street
Alumni Reception Center, 2nd Floor
San Francisco, CA 94102

Participants and members of the public were able to join the meeting via the web link or dial-in numbers listed in the public notice of this meeting linked here:

<https://www.uchastings.edu/our-story/board-of-directors/board-meeting-notices-agendas-and-materials/>

1. Roll Call

The Chair called the meeting to order at 9:30 a.m., and the Secretary called the roll.

Directors Present

Director Chip Robertson, Chair
Director Simona Agnolucci, Vice Chair
Director Shashi Deb
Director Michael Ehrlich
Director Andrew Giacomini
Director Andrew Houston
Director Claes Lewenhaupt
Director Mary Noel Pepys
Director Courtney Power
Director Albert Zecher

Directors Absent

None

Staff Participating

Chancellor & Dean David Faigman
General Counsel & Secretary John DiPaolo
Assistant Chancellor & Dean/Chief of Staff to the Chancellor & Dean Jenny Kwon
Chief Financial Officer David Seward
Deputy General Counsel Laura Wilson-Youngblood

Others Participating

Mr. Steve Brown, Chairman, Yuki Indian Committee, Round Valley Indian Tribes

Hon. Robert Hertzberg, State Senator

Hon. James Ramos, State Assemblymember

Mr. James Russ, President, Round Valley Indian Tribes Tribal Council

Hon. Tom Umberg, State Senator

Hon. Scott Wiener, State Senator

1.1. Opening Blessing

At the invitation of the Chair, Assemblymember Russ offered a Serrano song as a blessing.

2. Welcome

2.1. Introductory Comments

Chair Agnolucci welcomed guests and the public to the meeting. She recounted the process that had led to today's meeting. In 2018, the College commissioned Professor Brendan Lindsay to write a white paper on the topic of Serranus Hastings' actions that concluded that Judge Hastings had committed atrocities against the Yuki Indians in Round Valley and Eden Valley. In 2020, the Hastings Legacy Review Committee issued a report focused on critical restorative justice efforts the College should take related to the peoples of Round Valley. That committee did not recommend a name change. In September 2020, the Board of Directors adopted that report. However, as restorative justice efforts continued, it became clear that keeping the name would be offensive to many, so the Board voted to remove Hastings from the College's name in November 2021. In March 2022, the Chair of the Board appointed Director Albert Zecher chair of a committee to re-examine the historical basis for the decision to rename the school, and that committee's report affirmed that the Hastings name should be removed. On June 3, 2022, the Board held its first consultation with Round Valley Indian Tribes (RVIT) and the Yuki Committee, facilitated by Assemblymember Ramos. The Chair of the Board appointed a consultation committee comprising Chair Agnolucci and Vice Chair Robertson. The Consultation Committee began in June 2022 a series of meetings with Assemblymember Ramos and RVIT and Yuki representatives. Chair Agnolucci said she appreciated the leadership of Messrs. Ramos, Russ, and Brown. The Consultation Committee also met with Jonathan Cordero, President of the Association of the Raymutush Ohlone. The College continued to receive messages from the public on this matter up to a few

minutes before the meeting, and Chair Agnolucci indicated that she read them all.

2.2. Comments by Elected Officials

Assemblymember Ramos stated that there had been an ongoing process, starting in October 2021, that included discussions and input with tribal members at the table. He thanked his colleagues in the Assembly and Senate for their work in bringing together people to bring this history of the State of California to light and for working with the tribes to solve this issue. This is a model for others in the State to follow.

Senator Weiner thanked his colleagues, especially Assemblymember Ramos for taking the lead in this matter and Senator Umberg, with whom it was a pleasure and honor to work. He also thanked the College, especially Dean Faigman for all of his incredibly hard work, always with an attitude of coming to resolution. As a San Francisco native for 25 years and representative of San Francisco, Senator Weiner was happy that this resolution has been reached and that the Hastings name is going to be removed. He expressed that the idea that a San Francisco institution would have the name of someone who committed genocide is unthinkable, and that this is just one example of wrongs against California's Indigenous Peoples. What Serranus Hastings did was not an aberration; it was part of the policy of the State of California to exterminate and remove Native Americans in California. He said we need to own that as Californians as part of the history of our state, and we need to make amends. The restorative justice initiatives in our bill are as important as the name change. It is a model for the initiatives we should be taking to address the atrocities that occurred around colonization.

Senator Umberg thanked Assemblymember Ramos and Senator Wiener for all of their work in getting this done. He also thanked Dean Faigman for coming to the table with an open mind and heart and for all of his work. As an alumnus of Hastings, he believes it is very important to recognize the atrocities committed by Judge Hastings long ago, which still reverberate today. As a legislator, he believes it is important to make sure that the legacy of the school in San Francisco be continued. He also considers it important to recognize the State's complicity in these atrocities and the State's responsibility to set up restorative justice efforts.

Senator Hertzberg asked whether "UC" would be in the College's name. Mr. DiPaolo stated that the the affiliation of the College with University of California is in another section of the code, and that affiliation will remain unchanged. Dean Faigman stated that the College has had several meetings with UC President Michael Drake, who has consulted with the Regents. The College will market degrees as UC College of the Law, San Francisco, if the Board so votes. Senator Hertzberg said he considers it very important to continue that relationship. Hastings has fallen a lot in the rankings since he was a student, and the UC name critically important.

3. Review of Historical Basis for Board's Decision to Remove Chief Justice Serranus C. Hastings Name from the Law School

Director Zecher presented the evidentiary basis for the Board's decision to decouple the Hastings name from the College. Director Zecher personally reviewed the historical records along with Vice Chair Robertson this spring. Brendan Lindsey's 2018 report found that Hastings had committed atrocities from 1859-1860, approximately two decades before the law school was founded. He sponsored and supported indiscriminate killings against men, women and children. Several alumni asserted that there was not sufficient historical basis to conclude Judge Hastings was involved in the atrocities. The Board's Historical Review Committee looked at the historical record in the light most favorable to Hastings; and, even so, the Committee found he was complicit in mass killings against the Yuki.

In his 1860 deposition, Judge Hastings testified that the only outrage he knew about was the killing of a number of Yuki Indians by his ranch foreman H.L. Hall in retaliation for the killing of livestock; this had happened in 1858 and Judge Hastings said he found out about it in January 1859. Yet Judge Hastings continued to employ Mr. Hall thereafter. In February of 1859, his ranch foreman struck again and killed several Yuki Indians, including infants, again in the name of protecting Judge Hastings's livestock. Furthermore, in 1859 and 1860 Judge Hastings was so involved in promoting, establishing and supporting a militia group called the Eel River Rangers that he must be held responsible for its actions. The Rangers' specific purpose was to clear the Yuki people from the land. Judge Hastings is on record promising to pay the Rangers and supply them with bullets. Judge Hastings encouraged the Governor to expand the Rangers. Judge Hastings promoted and supported an armed militia tasked to use deadly force, so he cannot be absolved from the deadly slaughter just because he did not pull the trigger himself. His involvement may have been even deeper than is reflected in

these facts, but the point is to show that there is ample historical support to decouple the Hastings name from the College.

4. Overview of AB 1936 – A Bill to Rename the Law School and Support Restorative Justice Initiatives

Mr. Seward said the bill had received broad bipartisan support in the Legislature. It was co-authored by Assemblymembers Ramos and Ting. The bill modifies the existing legislative framework by removing the name Hastings and calls for a consultative process between the College, RVIT and the Yuki Committee, removes the Hastings descendant board chair, and calls for a recommendation of a new name by the Board after the consultative process. The bill outlines a series of restorative justice measures that the Assembly recommends the College take. The College agrees to provide pro bono legal support to residents of Round Valley and participate in the Native American Opportunity Plan to promote accessibility and affordability for those pursuing a legal education. The Budget Act of 2022 includes \$885,000 dollars to support renaming and other costs. The College will seek additional funding to enable it to fully undertake these initiatives; an estimated \$3.4 million is needed. The bill has gone through both houses of the Legislature with unanimous bipartisan support.

5. Comments on Consultative Process

5.1. Assembly Member James Ramos

Assemblymember Ramos thanked Chair Agnolucci and the College for their hard work. He thanked President Russ, Mona Oandasan, and Chairman Brown for their hard work as well. Assemblymember Ramos said this process started in October 2021 when the school indicated it was open to renaming itself. All of the foregoing people plus Dean Faigman met and worked on the bill for over 60 hours to get to the bill we have today. The consultation process in the bill contemplates consultation with the federally-recognized RVIT tribe and its designated Yuki Committee. Those meetings moved forward to where we are at today. The consultation process with RVIT began June 3 and ended July 13. Powe N'om was always the name being discussed as put forward by the Yuki Committee as a possible replacement name for the College. He also noted that a lot of work has gone into the bill regarding restorative justice. At the July 13 meeting the parties agreed to discuss Powe N'om as a potential name along with others, as well as what is already in the bill regarding restorative justice. Other measures include giving an indigenous name for the law library, recognition of

atrocities committed at convocation and commencement, a willingness to reexamine the name of the College if the name of San Francisco changes, and legal support to look into issues that we're discussing here today. He stated he was calling out reengagement on the name if the City's name has changed because it was no longer in the memo. He thanked everyone for their engagement, noting that when this process started there was an absence of native peoples at the table, and now they have been included. The present moment is the most important part of the process, which is choosing the name. This is a model for others in the state of California to come to terms with the impacts of the atrocities committed by the State against its first people. We will no longer see the history of California swept under the rug when it comes to treatment of its first people. We need to right the wrongs and listen to the voices of the people who are crying out for the true history of California's first people to be told.

5.2. President James Russ, Round Valley Indian Tribes

President Russ began by thanking the Creator for bringing us together to discuss this important issue. He thanked Assemblymember Ramos for his leadership. It is important to remind ourselves that this is not an easy discussion to have; there is a lot of denial and sweeping things under the rug. As Indian people, we need to see that the actual truth is being acknowledged. It is important to know that as an example, if you look at our own public school system, we do not hear the history of what happened to Indian people in our area. President Russ gave a lot of credit to Dean Faigman, the College, and the Board for bringing this to the forefront. If these leaders were not in support of it, we would not be having this conversation. There were many conversations with Mona Oandasan, Steve Brown, Assemblymember Ramos, and College representatives. These were not easy conversations, but we all stayed and got to this point. Restorative justice measures and renaming conversations are really important. The Native Peoples wanted to be involved, wanted a voice, wanted to be heard. All of our tribes have a story to be told throughout California and the nation. We want that mutual respect; we can listen to arguments and express our views too. Thanks for being open and for listening to our views. We wanted to be involved in the process and the process has been good. We went through AB 1936 line by line and had input into it. Other Council members and others of our people have given input, too.

5.3. Chairman Steve Brown, RVIT Yuki Committee

Chairman Brown said he read Dean Faigman's memo and its recommendations against naming the College Powe N'om. That memo was not a brief because it did not include counterpoints. He and others talked to Jonathan Cordero and Ben Medel, and they have their own agenda and are not credible. Dean Faigman left out the feedback from the Muwekma Oholone who support the Powe N'om name. Dean Faigman consulted with hand-picked tribal members with no credibility. This is a cold case homicide of 20,000 victims. Chairman Brown's whole family tree was murdered, and all he wants is for the College to put two of their words on the College. There must have been 1000 small defenseless babies included in the victims. Chairman Brown described what he imagined bullets did to those babies. Judge Hastings paid people to do this. Today we call those people psychopaths. Chairman Brown described images of dead babies at the College and told the Board to think of those images when it voted. He said, honor is important to our people, and we are all waiting to see if you will do the right thing. Fiat justitia, the school motto, means swift justice. If swift justice for is some, then change the motto. Now is your chance to show that there is justice for all. Make a motion and second it for the name Powe N'om. Don't let us down.

6. Overview of the College's Ongoing Commitments to Restorative Justice Initiatives

- 6.1. Physical Plant Commemoration and Naming
- 6.2. Indigenous Law Center
- 6.3. Educational and Cultural Initiatives
- 6.4. Other Program Initiatives

Dean Faigman said outreach to the tribes of RVIT began in 2017. There had been numerous meetings with RVIT and the Yuki people, including many who prefer to be referred to as the Wit'uconomom people. Since then, the College has dedicated space on its first floor to Native American history focused on the Yuki people. It has established the Indigenous Law Center two years ago. The College funded four scholarships this year for students to work on indigenous issues in the Round Valley area. The College is also working on a program to give students of RVIT the chance to participate in moot court and writing programs. Compassion, empathy, and common ground will be at the heart of our work together as we advance together into the future.

7. Presentation of Report of the Board Consultation Committee

Chair Agnolucci said the issues examined in the Committee's report are complex, and she hoped that all read it. It is the culmination of a long and robust process. She and Vice Chair Robertson worked hard to incorporate all input received, including that of Assemblymember Ramos, President Russ, Chairman Brown, alumni, students and others. The Committee recommends AB 1936 be amended to name the school College of the Law, San Francisco. It recommends additional restorative justice measures beyond what are in AB 1936: naming the law library an appropriate indigenous language name following additional consultation with RVIT and its designees; acknowledgement of atrocities at commencement and convocation; and collaboration with Round Valley to provide students opportunities to develop debate and writing skills through trial advocacy and moot court. The Committee continues to support decoupling the Hastings name from the school, which is itself an important restorative justice measure. The stain of his actions still exists. The College has received a lot of input from members of the public. Seven percent supported a Yuki-language name. Although the Yuki Committee supports the name Powe N'om, that name is not universally favored among the Yuki or RVIT, or other tribes. The RVIT, a federally-recognized tribe, has not endorsed this approach or taken a position on the name. The Ramaytush Oholone expressed in a letter to the College that naming the College in another tribe's language on their ancestral land would be a grave offense to them. Other Yuki members advocated for other approaches.

The College has been in San Francisco since 1878. San Francisco is one of the greatest cities in the world. We have heard some criticism of the name based on the San Francisco mission, but we are not naming the school after the mission, but for the city itself. San Francisco is the overwhelming choice of students, staff and alumni; a geographic name is also the uniform approach of other UCs. Restorative justice has been our goal from the beginning. The College has agreed to all of the restorative justice measures Mr. Seward mentioned, including the goal of education. The law library naming will put an Indigenous-language name on a central aspect of the College's education program. The Committee enthusiastically supports moot court and trial advocacy programs providing debate and writing support to Round Valley students and informing our students at graduation of the atrocities committed.

8. Public Comment Period

The Chair invited public comment. The Secretary stated that each commenter would be limited to one minute and that there was 30 minutes total for public comment.

Tocal Halsey American Bird, a San Francisco native and Yuki descendent, spoke in favor of an Indigenous-language name.

Rick Marcus, a member of the faculty, spoke in favor of a geographic name.

Edwina Lincoln, a Yuki descendant, spoke in favor of a name that respects the history of the Yuki people.

George Bisharat, a member of the faculty, spoke in favor of the name Powe N'om.

April McGill, a Yuki descendant, spoke in favor of an Indigenous-language name.

Catalina Lozano spoke in favor of the name Pow'e'nam.

Jonathan Cordero, Chair of the Ramaytush Oholone peoples, spoke in favor of the name change but against a Yuki-language name.

Norma Garcia spoke in favor of the name Pow'enam.

Maria Dominguez, a Hastings alumna, spoke in favor of the name Powe N'om.

Mona Oandasán criticized the Dean for listening to a particular Yuki family and Jonathan Cordero.

Zachary Price, chair of the Faculty Executive Committee, spoke on behalf of that Committee in favor of a geographic name.

Charan Brahma, a UC Hastings alumnus, spoke in favor of a geographic name.

Morris Ratner, Provost and Academic Dean and professor, spoke in his individual capacity in favor of a geographic name.

June Sakamoto, Senior Assistant Dean of Enrollment Management, spoke in favor of the San Francisco name.

Richard Flier, an alumnus, spoke in favor of retaining the Hastings name.

Kris Witten, an alumnus, spoke in favor of retaining the Hastings name.

Carol Hamilton, an alumna, spoke in favor of a geographic name.

Jeremy Chan, an alumnus, spoke in favor of the name Powe N'om.

Deb Hut, a Yuki descendant, said there should at least be a Yuki-language motto if not the school name.

Jerome Pandell, an alumnus, spoke in favor of a geographic name.

James Sewitan, a Yuki descendent, spoke in favor of the name Powe N'om.

Elizabeth Delaney, an alumna, spoke in favor of a geographic name.

Nickole Whipple, a member of RVIT, spoke against the name San Francisco.

Adam Slote, an alumnus, spoke in favor of the San Francisco name.

Morningstar Gala, California tribal and community liaison, said the name change was important and capture and removal of native peoples is an ongoing issue.

At this point, the Chair closed public comment.

9. Board Discussion on the Name Change and Restorative Justice Initiatives

The Chair invited Board members to discuss their views on the name change and restorative justice initiatives.

Director Pepys stated that she likes the meaning of the phrase Powe N'om very much. One people is a concept she deeply believes in, especially because of working internationally. She believes that Hastings has always embraced this. The Board has already voted to remove the Hastings name from our school. This is because the Board heard you, heard your pain. We as a Board of Directors are personally responsible for the future of the school. This includes restorative justice initiatives that impact the tribes and selecting a new name that reflects the depth and breadth of our school's community, a community embraced by the College regardless of race, gender, class, etc. This community is deeply embedded in San Francisco and it is this community who will

partner with RVIT in the future. Restorative justice efforts began four years ago. Based on trust and friendships that have been created over the past four years, she foresees a future that brings us all together as one people.

Director Houston said he is a graduate of Hastings class of 2007 and a first-generation college and law student from a single parent household. Going to Hastings changed the whole trajectory of his life. It gave him economic stability and knowledge of the law for his community. As a law student, he and his African American classmates would ask how to dress, wear their hair, and speak in interviews as they entered a White profession. Hastings has opened doors for many people of color, including Kamala Harris and London Breed. There are many differences between African American and Native Peoples, but many similarities, including being victims of murder, rape, etc. Director Houston has talked to other African American alumni about what they think about the name. While he doesn't speak for everyone, in a predominantly White institution and profession, White people make decisions that have real effects on people of color's lives. Changing the name to Powe N'om could have positive effects, but there are unfortunately a lot of people who would not support the institution anymore. That would make the struggle for students of color even harder, for students who do not have a dime to their name, whose parents are incarcerated, who are parents while in law school. The issue in speaking with African American alumni is that the Powe N'om name will not be accepted by people who have the power to impact the lives of people of color. He wishes we lived in a society where people would accept Powe N'om and would accept Barack Hussein Obama as an American citizen. He thinks that the San Francisco name gives people of color the best chance at success. This has kept him up many nights. He also does not want to suggest that if you don't support Powe N'om you don't support the Yuki people. He personally wants to help any Yuki person who comes to him and wants to go to the College.

Director Lewenhaupt said that as the sole descendant of Serranus Hastings on the Board, he is emotionally tied to this issue. He wants to express on behalf of himself and his siblings his deepest sympathies. He knows and has heard the pain in all of the meetings. He has sat with the Medels and their families and Dean Faigman. He sat and broke bread with them and listened to all of their pain. He wishes we could turn back the clock. He prays he wouldn't have done the same as Serranus Hastings did. He has spent his life in the military dedicated to ensuring that soldiers act in accordance with the rule of law. He has served on the Board for 16 years now, and his time on the Board is limited. He has tried to serve humbly, with only the interests of the institution, and he has seen amazing things happening at the College with Dean Faigman's leadership. The institution is

growing in its ability to support and stand for the little guy. He supports the geographic name because he thinks that will best help the institution thrive. He offers his support to restorative justice and anything he can do to keep this issue alive and at the forefront in California and across the nation.

Director Deb said the discussion of *fiat justitia* took her back to her time at Hastings. Those words are the call of duty as lawyers enter the legal profession and are an enormous responsibility. They are not taken lightly. It was emotional to hear your pain and words of sorrow. She feels deep, deep sorrow for what you and your people have gone through. Assemblymember Ramos said that no longer will history be swept under the table. Most people who started here as law students knew nothing or only superficial information about Judge Hastings, and she is ashamed about that. A lot of work has been done toward restorative justice and becoming one people. She is proud of removing the name Hastings and replacing it with the name San Francisco.

Director Power said she is a Hastings graduate from the class of 2001. She acknowledges the power and gravity of the feedback today and throughout process. She wants to echo what others have said in that all feedback was reviewed and carefully considered along the way. She embraces the Powe N'om name for aspects of the building and embraces the full restorative justice program. She thanked everyone. She has learned a lot along the way and supports every effort of restorative justice, including those that encourage knowledge of this history.

Director Giacomini said he is a UC Hastings graduate. He has appreciated the consultative process and learned a lot. He is ashamed of the atrocities committed against the Yuki people. He did not do it himself, but as a White man in California, he knows that he benefited directly from those atrocities. He apologized again to each person and their families. He appreciated what Director Houston said. It is really important that whatever we do reflects deep listening to the stories, feelings, and histories of the Yuki people. This process must continue; it does not end with a vote today. He is mindful that there are different points of view on this, and he does not have a way of reconciling all of the views. Some people think that using a Yuki name here would offend others, some people say that is not true; he does not want to create new offense, and that is influencing his decision. The restorative justice efforts are tangible evidence that the College is listening, and he wants that to continue. The decision to remove the Hastings name took a while, and it is reflective of listening to your concern and pain. The things that we have done are consistent with our motto. They may not be enough for some people, and he does not expect that whatever we do will be enough.

He does not know what could be enough to make amends for 20,000 murdered ancestors. Maybe becoming one people would be enough. We have been asked by the Yuki to take a roll call vote on name Powe N'om. For different reasons from Director Houston, he does not support renaming the College Powe N'om: he does not want to create another wrong to another tribe. Restorative justice, continued listening, and not allowing history to fade away are important. He does support finding another naming opportunity for Powe N'om and discussions of the best way to recognize it in the future.

Vice Chair Robertson expressed his thanks to everyone. This is the beginning of a long and productive relationship. While the Board may not agree on the name Chairman Brown has proffered, there will be a relationship going forward. He is looking forward to the future, which will take a lot of work and a lot of listening. That needs to be our focus, and to bring benefit to the community however we can. He has learned a lot and looks forward to continuing to learn.

Chair Agnolucci thanked everyone for the time and honesty people put into this process. She has learned a lot. She does not think the College will ever please everyone or choose restorative measures that are enough. What could ever be enough? She feels confident that the recommendation of a geographic name is in the best interest of the institution and that restorative justice efforts will bring healing to RVIT and the Yuki. This hasn't been an easy process, but it has been a robust one.

10. Call for a Motion to Determine and Approve New Name for the College and Affirm Commitment to Restorative Justice Initiatives Under AB 1936.

Chair Agnolucci introduced a resolution that she read to the Board, highlighting certain edits made as a result of comments at this meeting. She read the resolution as follows:

RESOLUTION OF THE BOARD OF DIRECTORS OF HASTINGS COLLEGE OF THE LAW

Whereas, the Hastings College of the Law Board of Directors (the Board) is the lawful governing body of Hastings College of the Law (the College);

Whereas, in 1878 Serranus Hastings contributed \$100,000 in gold coin to found the first law department of the University of California;

Whereas, the California Education Code provides that the law school should henceforth be known as Hastings College of the Law, a department of the University of California;

Whereas, in 2020, the College, through the office of the Chancellor & Dean and the work of the Hastings Legacy Review Committee, completed a three-year project to examine founder Serranus Hastings' involvement in mass killings of Native Americans in California's Eden and Round Valleys before the College's founding and sought ways to restore justice for those crimes;

Whereas, over the last four years, the College has established a growing relationship with the Round Valley Indian Tribes Tribal Council and Yuki People^[1] in pursuit of restorative justice.

Whereas, throughout the process of reconciliation between the College and members of the affected tribes, officials at the College understood that the name of the school was an abiding issue;

Whereas, legislation is needed to conform the California Education Code to whatever new name is adopted by the Board;

Whereas, on November 2, 2021, the Board directed the Chancellor & Dean to work with the California Legislature, the Governor's Office, and other offices to enact legislation changing the name of the College;

Whereas, since that date the Chancellor & Dean and other College leaders have worked with Senator Scott Wiener, Senator Tom Umberg, Senator Robert Hertzberg, Assemblymember Phil Ting, and most especially under the leadership of Assemblymember James Ramos, to support legislation to institute continuing restorative justice initiatives and to change the name of the College in statute;

Whereas, the Board fully supports Assembly Bill 1936 (AB 1936), co-authored principally by Assemblymember James Ramos and Assemblymember Phil Ting, including its provisions to remove Hastings from the College name and the twenty-one restorative justice initiatives outlined therein;

Whereas, AB 1936 requests that the Board submit a recommendation to the California State Legislature only after consultation with representatives of the Round Valley Indian Tribes and its designees of the Yuki Indian Committee;

Whereas, California Education Code Section 92201 states, "The college is affiliated with the University of California, and is the law department thereof"; Section 92203 states, "The faculty of the University of California shall grant, and the president shall sign and issue, diplomas to the students of the college," and nothing in this resolution or AB 1936 would change the College's deeply valued affiliation with the University of California;

Whereas the Board and its Consultation Committee (the Committee), the Chancellor & Dean, and other College leaders held five consultative meetings in June and July 2022 regarding the College name and restorative justice initiatives with the Round Valley Indian Tribes Tribal Council and its Yuki Committee;

Whereas, as a result of those consultative meetings, the Committee and College leaders discussed with the Round Valley Indian Tribes and its Yuki Committee the name of the College, as well as four additional restorative justice initiatives (outlined below);

Whereas, between November 2021 and January 2022, the College held multiple town halls and events to receive feedback from College students, staff, faculty, and alumni on the name change.

Whereas the College and the Board of Directors reviewed over 300 emails and letters received regarding viewpoints on the name change that, in summary showed that nearly 80% of responses support a name change, and among those who support a name change, 68% support a geographic designation, 14% support a name change with no specific name request, 12% support a person or other name, and 7% specifically support an Indigenous language name designation;

Whereas the College and Board of Directors have heard from multiple constituencies outside the College interested in this issue, including state and local officials, the media, and the general public.

Whereas, the Committee and College leaders heard strong arguments in favor of the Yuki Committee's stated preference that the school adopt a Yuki-language name, specifically "Powe' N'om," meaning "one people." Their advocacy for, and sincerely held desire to have, their people be honored in this manner is understandable and worthy of our respect;

Whereas, the Committee and the College leadership heard from additional Yuki descendants who support the College in designating its own name, who support a geographic designation, and/or do not support a name change, but rather see retaining the name as an act of forgiveness and pathway to healing and reconciliations;

Whereas, the Committee and College leaders met with the Association of the Ramaytush Ohlone to discuss the name of the College, as it sits on the ancestral land of their People. The College respects their strong opposition to a Yuki-language name for the College and their statement that naming an institution on Ramaytush Ohlone ancestral land in the language of a tribe from another region would be gravely offensive and in violation of traditional Indigenous protocols, and also acknowledge their support for use of the city of San Francisco in the College's new name;

Whereas, the College has been located in the great city of San Francisco since its founding in 1878, having graduated tens of thousands of attorneys, and some of its outstanding graduates have been uniquely identified with the city, including Wiley Manuel, Willie Brown, George Moscone, Jeff Adachi, and Kamala Harris.

Whereas, San Francisco is one of the great cities of the world and, as the College's home, it bestows gravitas on the institution, and the institution contributes to the City's greatness;

Whereas, San Francisco is, by far, the overwhelming naming choice of students, staff, faculty, administrators, and alumni of the school;

Whereas, a geographic designation follows the general approach of the University of California and the California State University System to name its campuses by their geographic locations; therefore, be it

Resolved that the Board recommend to the California Legislature, pursuant to AB 1936, that the name “Hastings College of the Law” in the Education Code be Replaced with “College of the Law, San Francisco;” and be it further

Resolved that the Board ratify the Twenty-one Restorative Justice Initiatives set forth in AB 1936; and be it further

Resolved that the College will support an amendment to AB 1936 to add the following four additional restorative justice initiatives:

1. Naming the law library an appropriate Indigenous-language name, to be agreed upon following consultation with RVIT, its designees, and the College;
2. Acknowledgment at Convocation of the atrocities committed under state law against the Yuki People in the nineteenth century;
3. Acknowledgment at Commencement of the atrocities committed under state law against the Yuki People in the nineteenth century;
4. Development of opportunities for collaboration between the College’s Moot Court and Trial Advocacy Programs with students in Round Valley to provide experience in debate and writing skills; and be it further

Resolved that the College maintain an ongoing and collaborative relationship with the Tribal Council of the Round Valley Indian Tribes and the Yuki people to pursue continued healing and restorative justice related to the acts of Chief Justice Serranus Hastings.

[1] The Yuki are also known as Powe’ N’om and Wit’uconomom People of Eden Valley and Round Valley.

Vice Chair Robertson seconded the motion.

The Chair invited debate. Hearing none, the Chair called for a roll call vote.

The Secretary called the roll, and the Directors voted as follows:

Director Simona Agnolucci, Chair: Aye

Director Chip Robertson, Vice Chair: Aye

Director Michael Ehrlich: Aye

Director Andrew Giacomini: Aye

Director Andrew Houston: Aye

Director Claes Lewenhaupt: Aye

Director Mary Noel Pepys: Aye

Director Courtney Power: Aye

Director Albert Zecher: Aye

The Secretary declared that the motion had been unanimously approved.

11. Adjournment

11.1. Closing Blessing

President Russ invited elders to lead a prayer to close the meeting.

The Chair adjourned the meeting at 11:58 a.m.

Respectfully submitted,

John K. DiPaolo, Secretary

Kahn Declaration

Ex. 3

SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair
2021 - 2022 Regular

Bill No:	AB 1936	Hearing Date:	June 30, 2022
Author:	Ramos		
Version:	May 19, 2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: University of California: Hastings College of the Law

SUMMARY

This bill modifies provisions relative to the founding of Hastings College of the Law by striking references throughout the Education Code of its founder, S.C. Hastings. This bill further re-designates Hastings College as the College of the Law and specifies a process for renaming the college in the future.

BACKGROUND

Existing law:

- 1) Establishes, under the California Constitution, the University of California (UC) as a public trust to be administered by the Regents of the UC with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university, and such competitive bidding procedures as may be made applicable to the university for construction contracts, selling real property, and purchasing materials, goods and services. (Constitution of California, Article IX, Section 9).
- 2) Establishes the Hastings College of the Law, under the governance of an 11-member Board of Directors of the Hastings College of the Law, within the UC. It provides that the college forever be known and designated as the Hastings College of the Law. Additionally, existing law requires that one of the directors include an heir or representative of S.C. Hastings (Education Code § 92200-92215)

ANALYSIS

This bill:

Renaming Hastings College of the Law

- 1) Modifies provisions relative to the founding of Hastings College of the Law by striking references throughout the Education Code of its founder, S.C. Hastings, and re-designates the college as the College of the Law.
- 2) States the city and year in which the College of the Law was founded.

- 3) Provides that a future name change requires both of the following:
 - a) The Legislature requests that the Board of Directors of the Law college, make a final recommendation to the Legislature after consultation with representatives of the Round Valley Indian Tribes, and its designees of the Yuki Indian Committee.
 - b) That full consultation with the Round Valley Indians Tribes, and its designees of the Yuki Indian Committee approved by the Round Valley Tribes, have concluded.
- 4) Defines “consultation” for the purposes of the bill, to mean the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation is to recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.
- 5) Makes the provisions of the bill relative to the future name change contingent upon an appropriation of funds in the Budget Act of 2022 to the University of California for the purpose of designating a name for the College of the Law.

Changes to the Board of Directors

- 6) Modifies the composition of the Board of Directors of the College of the Law as follows:
 - a) Removes the requirement that an heir or representative of S.C. Hastings be on the board of directors.
 - b) Limits any director in office on January 1, 2023, who was not appointed by the Governor to a six-year term, from January 2023 to January 1, 2029, inclusive.
- 7) Makes conforming changes.

Finding and declarations

- 8) States all of the following Legislative findings and declarations:
 - a) On March 26, 1878, the Legislature approved an act (the “Original Act”) to create Hastings’ College of the Law, in the University of the State of California.
 - b) The Original Act authorized Serranus Clinton Hastings (“S.C. Hastings”) to found and establish a law college known as Hastings College of the Law (the “College”).

- c) The object of the Original Act was for the state to grant a perpetual annuity for the support and maintenance of the College.
- d) The Original Act provided that S.C. Hastings would pay into the State Treasury the sum of \$100,000, and that amount is never to be refunded, except as provided in the Original Act;
- e) S.C. Hastings completed the payment of \$100,000 specified in the Original Act on May 24, 1878.
- f) The Original Act required the state to appropriate the sum of seven percent per annum upon \$100,000 to be paid in two semiannual payments to the Board of Directors of the College.
- g) In each year since 1878, the state has appropriated and paid, in semiannual payments to the Board of Directors of the College, a sum equal to or greater than seven percent per annum upon \$100,000.
- h) The College was established in 1878 and has continued to exist ever since without interruption.
- i) The Original Act stated that the College was to be designated as Hastings' College of the Law.
- j) The Legislature previously amended the Original Act in 1907, in 1943, in 1959, in 1976, in 1980, and in 1992 (as amended, the "Act"), and the Act currently is codified in Article 1 (commencing with Section 92200) of Chapter 3 of Part 57 of Division 9 of Title 3 of the Education Code.
- k) In September 2020, the College completed a three-year project to examine founder S.C. Hastings' involvement in mass killings of Native Americans in California's Eden and Round Valleys before the College's founding.
- l) The project determined that the founder of the College, S.C. Hastings, perpetrated genocidal acts against Native California Indigenous Peoples, most especially the Yuki Tribe, in the 1850s in the Eden Valley and Round Valley areas in the County of Mendocino.
- m) For a period of four years preceding this bill, the College collaborated with the Round Valley Indian Tribes' Tribal Council and Yuki Tribal members in pursuit of restorative justice. As one of several restorative justice actions, on November 2, 2021, the Board of Directors of the College unanimously authorized that the name of the College be changed.
- n) In connection with the name change authorization, the Board of Directors of the College determined that changing the name of the College is in the best interests of the continuation of the College in perpetuity, and is an element of the College's ongoing work to address the needs of the current generation of Yuki Tribal members and the College's legal community.

- o) An act of the Legislature is needed to change the name of the College.
- p) S.C. Hastings, founder of the Hastings College of the Law, promoted and financed Native American hunting expeditions in the Eden and Round Valleys, funding bounties resulting in the massacre of hundreds of Yuki men, women, and children.
- q) S.C. Hastings enriched himself through the seizure of large parts of these lands and financed the college of the law bearing his namesake with a \$100,000 donation to the state.
- r) S.C. Hastings and the state bear significant responsibility for the irreparable harm caused to the Yuki people and the Native American people of the state.
- s) The state has formally apologized to the Native American people of the state for the genocide financed and perpetrated by the state.
- t) S.C. Hastings' name must be removed from the College to end this injustice and begin the healing process for the crimes of the past.

Legislative intent

- 9) Expresses that the Legislature intends to ensure that the "College" (defined for this measure as Hastings College of the Law) achieves all of the following:
 - a) Assists in the formation of a nonprofit organization, as described in subsection (c) of Section 501 of the Internal Revenue Code, in association with, and jointly governed by, Yuki descendants selected by the government of the Round Valley Indian Tribes to provide an organizational structure to raise capital, organize pro bono legal assistance, and other support, and assist tribal leadership with federal, state, and county matters, water and property rights, economic development, and efforts to meet the social needs of the community. The College's responsibilities extend only to assisting in the formation of the nonprofit organization, and will not otherwise involve its governance or the ongoing operations of the organization.
 - b) Seeks to organize, through the College's Indigenous Law Center or other administrative offices, as appropriate, pro bono legal assistance and other support, and assist tribal leadership with federal, state, and county matters, water and property rights, economic development, tribal courts, and efforts to meet the social and security needs of the community.
 - c) Works with interested public and private parties or entities to develop scholarship assistance for duly admitted law students at the college that are members of Round Valley Indian Tribes, a federally recognized tribal government. These funds may be used to offset tuition, housing costs,

and other incidentals for Round Valley Indian Tribes tribal members admitted to the law school.

- d) Dedicates a permanent and public memorial, and other displays, as appropriate, to the Yuki people at an appropriate location on its campus, with display panels, historical explanations, and cultural presentations. This memorial should acknowledge and atone for the historical traumas suffered by the Yuki people.
- e) Provides a fully functional, interactive public internet website to allow dissemination of the College's approach, to seek public input, and to keep the public advised of historical, academic, and programmatic work to address the broader issues and the restorative justice agenda. A page on this internet website shall be dedicated to the College's work with Round Valley Indian Tribes and the Yuki people.
- f) Establishes clinical or experiential educational programs for its students, one that may serve as a model for other law schools, to address the specific needs of the residents of the Round Valley, including the possibility of a center for pro bono legal assistance in tribal legal matters and public law assistance that could be staffed with student interns, faculty leadership, and pro bono contributors.
- g) Collaborates with Governor Newsom's Tribal Advisor to engage with, and contribute to, that office and the newly formed Truth and Healing Council, which is working to clarify the historical record of mistreatment, violence, and neglect of Native Americans in California.
- h) Assists in the organization of pro bono attorneys with a connection to the College to assist in mutually agreed upon goals and objectives.
- i) Assists tribal leaders, where possible, with other community needs, such as making connections to the College's award-winning moot court program, preservation of the Yuki legacy with an emphasis on youth, preservation of tribal oral traditions and stories, and advancement in teaching and preserving native languages.
- j) Assists, as appropriate, with the legal aspects of establishing a museum or cultural center in the Round Valley, and a project for the protection of sacred sites and repatriation of artifacts and human remains.
- k) Highlights the injustices of the past by bringing attention to the public at large and the College's community with a lecture series, guest speakers, and tribal elders, dealing with "Righting the Wrongs."
- l) Supports collaboration by assisting tribal members to obtain grant opportunities from public and private sources, including identifying grants for economic development.
- m) Establishes an Indian Law Program and related academic and educational

programs at the College, available to all students interested in studying Indian Law. The goal of these programs is the encouragement of scholarship, educational growth, opportunity and support for students, and recruitment of qualified individuals from the Round Valley Tribes or Yuki descendants for legal education and career opportunities in law.

- n) Assists, as appropriate to the work of a law school, with the revitalization and preservation of Yuki history and language efforts.
- o) Provides academic support, as needed, to Round Valley Indian Tribes students attending the College.
- p) Creates a working group consisting of members of the College's Restorative Justice Advisory Board and members of the Yuki Indian Committee to define the content to be placed in the commemorative space reserved for this purpose at the College.
- q) Assists tribal leadership with understanding the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) and the California Native American Graves Protection and Repatriation Act of 2001 (Chapter 5 (commencing with Section 8010) of Part 2 of Division 7 of the Health and Safety Code) laws.
- r) Engages in ongoing relationship building between the Round Valley Indian Tribes and the Yuki people, submitting reports to the Legislature, and the Assembly Select Committee on Native American Affairs.
- s) An apology from the College, the S.C. Hastings family, and all of those associated with the genocide of the Yuki people.
- t) Grants a seat on the College's commemorative committee to a representative of the Yuki people. The College shall create a subcommittee of the commemorative committee with Yuki Indian representation.
- u) The College and the Board of Directors provide resources for restorative justice to the extent required by law, and, when not required by law, assists in restorative justice policies.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "This bill is seeking to change the name of the UC Hastings College of the law, which is named in California statute.

"In September of 2020, the College of law completed a three-year project on the founder's role in the mass killings of Native Americans in Eden and Round Valleys before the College's founding. The project determined the founder perpetrated genocidal acts, most especially against the Yuki Tribe in the 1850s.

“The Board of directors unanimously approve a name change on November 2021 along with other measures to address the needs of the current generation of Yuki Tribal members and the College’s legal community.”

- 2) **Hastings College of the Law.** Hasting College of the Law, founded in 1878, is a public law school affiliated with the UC, it is one of five public law schools within the system. Hastings, however, has its own governing board (known as the Board of Directors), and the state budgets for it separately from UC. Hastings’ board has similar responsibilities as the UC Board of Regents, including establishing policy and setting student tuition and fee levels. Serranus Clinton (S.C.) Hastings, the first Chief Justice of the State of California, is credited as the founder of the college.

The decision to rename the college by the Board of Directors follows findings from the Hastings Legacy Review Committee which was commissioned by the Chancellor and Dean of the college in 2016. The findings include a report by a Sacramento State historian that detailed Serranus Hastings’ involvement in promoting and funding genocide against Native Americans. Historical accounts also show that the California State Legislature voted to reimburse Serranus Hastings for expenses incurred during these massacres.

However, a consensus on a new name was not achieved. This bill requires the college to engage in meaningful consultation, as defined, with the tribes impacted by Hastings’ actions, specifically Round Valley Indians Tribes, and members of its Yuki Indian Committee prior to making a recommendation to the Legislature on renaming the college.

- 3) **Restorative justice advisory board action.** Subsequent action by the college led to the creation of the Restorative Justice Advisory Board, which made recommendations on restorative justice actions and initiatives for reconciliation and partnership with the Round Valley Indian Tribal Council and the Yuki Indian Committee for members of the pertinent tribes, including establishment of an Indigenous Law Center at the College, which has been operating as of September 2020. This bill expresses that it is the Legislature’s intent that the college supports the community through the law center and commitment to other restorative justice efforts to meet the social and educational needs of the Round Valley Indian community.
- 4) **Arguments of support.** The Chairwomen for the Habematolel Pomo of Upper Lake writes, in part, “The namesake of the College was responsible for the massacre and subsequent land theft of the Yuki Indian people. The wealth he created from those actions allowed him to help found the College. Therefore, we believe changing the name of the college and enacting true, effective restorative justice for the Yuki Indian people establishes the best path toward true healing of past wrongs.

“Historically, Native American tribes have always been excluded in decision-making about issues that involve our history and shared trauma. The shameful history of Serranus Hastings is not a unique episode for California’s tribes. We share a history of stolen lands and a ‘divide and conquer’ approach that pits tribe

against tribe. In these tumultuous times, it is more essential than ever that California Indian Country stand united behind the Round Valley Tribal Council and Yuki Indian people in their quest for restorative justice and meaningful acknowledgment of the past.”

- 5) **Arguments in opposition.** None received on AB 1936 as of 6/24/2022.
- 6) **Related legislation.** SB 1288 (Umberg) similar to this bill, SB 1288 also sought to remain Hastings College of the Law by striking references to its founder S.C. Hastings and re-designates the law college as College of the Law. SB 1288, however, did not include provisions relative to consultation with tribal members. SB 1288 was ordered to the inactive file on the Senate Floor.

SUPPORT

Federated Indians of Graton Rancheria
Habematolel Pomo of Upper Lake
Morongo Band of Mission Indians
San Manuel Band of Mission Indians
Yocha Dehe Wintun Nation>

OPPOSITION

None received.

-- END --

Kahn Declaration

Ex. 4

CONCURRENCE IN SENATE AMENDMENTS

AB 1936 (Ramos and Ting)

As Amended August 11, 2022

Majority vote

SUMMARY

Modifies provisions relative to the Hastings College of the Law by striking references throughout the Education Code of its founder, Serranus Clinton (S. C.) Hastings; and, requires the Hastings College of Law Board of Directors, Round Valley Tribal Council, and Yuki Indian Committee to determine the new name of the College, as provided.

Senate Amendments

- 1) Re-designate Hastings College of the Law as the "College of the Law, San Francisco" and modify references in current law to the Hastings College of the Law to reflect its new name.
- 2) Provide that a name change requires all of the following:
 - a) The Legislature requests that the Board of Directors of the Law college, make a final recommendation to the Legislature after consultation with representatives of the Round Valley Indian Tribes, and its designees of the Yuki Indian Committee;
 - b) That full consultation with the Round Valley Indians Tribes, and its designees of the Yuki Indian Committee approved by the Round Valley Tribes, have concluded;
 - c) The Legislature requests that the Board of Directors of the college vote on replacement name names for the college pursuant to consultation described in the bill and include the final vote in its minutes for the meeting in which the final vote occurs; and,
 - d) After the board approves the replacement name, the Legislature requests that the Board of Directors of the college make a final recommendation to the Legislature.
- 3) Define, for purposes of this measure, various terms.
- 4) Incorporate double-jointing language to avoid chaptering issues with AB 1467 (Cervantes) of 2022.
- 5) Make clarifying and technical changes.

COMMENTS

Background. In 2021, a *New York Times* article detailed the involvement of the founder of the Hastings College of Law, detailing the massacre of Indigenous Californians. Since that time, numerous articles from various periodicals have been published.

In fact, according to an article in *The Press Democrat* on April 8, 2022, The Yuki people were the first group of individuals to reside in the Round Valley before settler and militiamen hired by the State massacred, enslaved, and rounded up the Tribe and five other tribes into what now comprises the Round Valley Tribes.

S. C. Hastings, a wealthy landowner and former Superior Court Justice, founded the College in 1878 and invested \$100,000 for the College's creation. History has shown, however, that less than a decade prior, Hastings ordered a group of White settlers, known as the "Eel River Rangers" to exterminate the Yuki people. The Rangers slaughtered over 400 Yuki people and took approximately 600 Yuki prisoners; and the State of California was billed \$11,143 (according to a 19th Century San Francisco newspaper).

This bill is not just about the name change of the College, but about making sure that the Round Valley and Yuki people feel listened to – that their history and sufferings are not dismissed. This is a critical step toward healing a traumatic history and rectifying wrongs.

How many would benefit? This measure, in part, seeks to establish the Indian Law Program and related academic and educational programs at the College, available to all students interested in studying Indian Law. The goal of these programs is the encouragement of scholarship, educational growth, opportunity and support for students, and recruitment of qualified individuals from the Round Valley Tribes or Yuki descendants for legal education and career opportunities in law. Further, this measure provides academic support, as needed, to Round Valley Indian Tribes students attending the College.

While it is presently unclear how many (if any) individuals from the Round Valley Tribes or Yuki descendants are presently enrolled in the College, according to the representatives of the Yuki people, current tribal enrollment is approximately 5,500. Further, it is estimated that of the 5,500, approximately 1,064 fall within the ages of 14-24 (traditional high school through college ages).

S.C. Hastings College of Law. Hastings College of the Law, founded in 1878, is a public law school affiliated with the University of California (UC); it is one of five public law schools within the system. Hastings, however, has its own governing board (known as the Board of Directors). As of 2021-22, of the school's approximately 1,110 students, 97% are enrolled in Hastings' core Juris Doctor (JD) program. Additionally, the school offers two law-related master's programs and, in 2022-23, will launch a third master's program – a joint Health Policy and Law program with UC San Francisco.

Hastings receives its core funding primarily from student tuition revenue (about three-quarters of ongoing core funding) and state General Fund (about one-quarter of ongoing core funding). Hastings anticipates enrolling more students in 2022-23 and plans a tuition increase for the 2022-23 academic year.

In January 2022, Hastings' Board of Directors approved an initiative to change the school's name. The name change is in response to evidence indicating that the school's namesake was involved in the massacre and dispossession of the Yuki people. As noted in the "Existing Law" section of this analysis, the school's name is codified; an official name change requires legislation.

Recent UC Office of the President Actions. On April 22, 2022, Dr. Michael V. Drake, President of the UC, stated that, "The University of California is committed to recognizing and acknowledging historical wrongs endured by Native Americans." Further, the UC President formally announced the launch of the UC Native American Opportunity Plan – a new program that seeks to advance critical efforts to expand student diversity and make the UC more affordable and accessible for California's Indigenous undergraduate and graduate students.

According to the announcement, commencing in Fall 2022, the UC will ensure in-state systemwide Tuition and Student Services Fees are fully covered for all California residents who are members of federally recognized Native American, American Indian, and Alaska Native tribes. Additionally, tuition scholarships for California residents from California's non-federally recognized tribes may be available through external organizations.

It appears as though the plan aligns, in part, to the goals established in this measure.

According to the Author

According to the author, "AB 1936 will ensure Native Americans have a say in the renaming of a prominent law school named for the notorious land speculator and politician Serranus Clinton Hastings – who built his wealth and land holdings by committing genocide against them."

The author goes on to state that, "AB 1936 will guarantee a collaboration between the Tribes and the College in selecting a new name and also in undertaking initiatives to mitigate past atrocities."

Arguments in Support

According to the Round Valley Indian Tribes, sponsors of this measure, "the namesake of the College was responsible for the massacre and subsequent land theft of the Yuki Indian people. The wealth he created from those actions allowed him to help found the College. Therefore, we believe changing the name of the college and enacting true, effective restorative justice for the Yuki Indian people establishes the best path toward true healing of past wrongs."

Further, the sponsors state that, "Historically, Native American Tribes have always been excluded in decision-making about issues that involve our history and shared trauma. The shameful history of Serranus Hastings is not a unique episode for California's tribes. AB 1936, which allows for an open and transparent process to select a new name for the College and ensures measures of restorative justice for the Round Valley and Yuki people, victims of the atrocities committed by Serranus Hastings."

Additionally, according to the UC Hastings Alumni for Justice and Accountability, "All educational institutions, but especially our California universities which are supported with public dollars, should be beacons for diversity, equity, and inclusion. The sad fact is that our communities of origin are still woefully underrepresented in the legal profession as confirmed by the 2021 Profile of the Legal Profession published by the American Bar Association. Allowing the Hastings name to remain on one of our nation's most respected law schools would erect yet another glaring barrier to students like us who are precisely the next generation of lawyers we need to attract and cultivate today."

Arguments in Opposition

According to one individual, "Substantial evidence indicates that Hastings' part, if any consisted of, following state law by preparing a petition to the Governor, requesting that 'militia' be formed under the Governor's authority to stop the violence and property destruction that had erupted between the Native people and the largely white settlers."

The individual goes on to contend that, "This evidence did not really see the light of day in the run-up to AB 1936 being introduced and has apparently still not been address by the historians who claim that Serranus Hastings participated in 'genocide.'"

FISCAL COMMENTS

According to the Senate Committee on Appropriations:

- 1) The Hastings College of the Law estimates General Fund (GF) costs of approximately \$3.4 million as a result of this measure. Of this amount, \$1.9 million would be for one-time costs related to renaming the institution; \$945,000 for one-time costs associated with communicating the new name to prospective students and employers; and \$559,000 in ongoing support of the Indigenous Law Center.
- 2) The 2022 Budget Act includes \$885,000 in one-time GF to support costs associated with renaming the institution and may only be encumbered following notification by Hastings College of the Law to the Director of Finance that legislation authorizing the name change has been enacted.

VOTES:

ASM HIGHER EDUCATION: 12-0-0

YES: Medina, Choi, Arambula, Bloom, Gabriel, Irwin, Kiley, Levine, Low, Santiago, Valladares, Akilah Weber

ASM APPROPRIATIONS: 12-0-4

YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

ABS, ABST OR NV: Bigelow, Megan Dahle, Davies, Fong

ASSEMBLY FLOOR: 75-0-3

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

ABS, ABST OR NV: Berman, Gray, O'Donnell

SENATE FLOOR: 38-0-2

YES: Allen, Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Borgeas, Melendez

UPDATED

VERSION: August 11, 2022

CONSULTANT: Jeanice Warden / HIGHER ED. / (916) 319-3960

FN: 0003997

Kahn Declaration

Ex. 5

Pacific Coast Law Journal.

VOL. 1.

JUNE 29, 1878.

No. 18.

Current Topics.

THE following is the full text of the bill repealing the Bankrupt Act as it passed both Houses and received the President's signature :

"Be it enacted, etc., that the bankrupt law approved March 2, 1867, title 61, Revised Statutes, and an act entitled, 'An act to amend and supplement an act entitled an act to establish a uniform system of bankruptcy throughout the United States, approved March 2, 1867, and for other purposes, approved June 22, 1874,' and all acts in amendment or supplementary thereto, or in explanation thereof, be, and the same are, hereby repealed.

"Provided, however, that such a repeal shall in no manner invalidate or affect any case, in bankruptcy instituted and pending in any court prior to the day when this act shall take effect; but to all such pending cases, and all future proceedings therein, and in respect of all pains, penalties, and forfeitures which shall have been incurred under any of said acts prior to the day when this act takes effect, or which may be therefore incurred under any of those provisions of any of said acts which for the purposes named in this act are kept in force, and all penal actions and criminal proceedings for a violation of any of said acts, whether then pending or thereafter instituted, and in respect to all rights of debtors and creditors (except the right of commencing original proceedings in bankruptcy), and all rights of and suits by or against assignees under any or all of said acts in any matter or case which shall have arisen prior to the day when this

act takes effect (which shall be on the 1st day of September, 1878), or in any matter or case which shall arise after this act takes effect in respect of any matter of bankruptcy authorized by this act to be proceeded with after said last-named day, the acts hereby repealed shall continue in full force and effect until the same shall be fully disposed of, in the same manner as if said acts had not been repealed."

The act of our Legislature for the relief of insolvent debtors and protection of creditors approved May 4, 1852, and the amendatory acts approved March 12, 1858, April 27, 1860, April 27, 1863, and March 31, 1876, were all superseded by the bankrupt act, but now upon its repeal they are again in full force. They were in no manner affected by any of the provisions of the Code. It will be observed that the repeal takes effect Sept. 1, 1878.

WE are pleased to acknowledge the receipt of a printed copy of the address of Hon. S. C. Hastings, the founder of the "Hastings Law Department of the University of California," before the Regents, President, and Faculty.

"The desire of the founder," says the speaker, "is to diffuse a knowledge of the great principles of jurisprudence, not only among those who propose to devote themselves to the noble profession of the law, but also among all classes of society; to elevate the general standing of the bar, and to maintain and perpetuate the purity and dignity of the bench."

He then discusses the mode of instruction, and expresses the following as his views of what should be done:

"If it should so be that these views meet the approval of the directors named in the statute, I shall be pleased. If they do not, I shall submit cheerfully to their better judgment.

"By Section 1 of an Act entitled 'An Act to authorize S. C. Hastings to found a college of the Law in the University of California, approved March 26th, 1878,' I am authorized to found and establish a college, to be forever known as 'Hastings College of the Law,' which shall be the Law Department of the University of California.

"The officers of this college shall be a Dean and Registrar, to be appointed by a Board of Directors, consisting of J. P. Hoge, W. W. Cope, Samuel M. Wilson, Delos Lake, O. P. Evans, Thos. B. Bishop, John R. Sharpstein, and Thomas I. Bergin, of the Bar Association of the City of San Francisco, and who shall forever fill all vacancies with some member of said association, or otherwise.

"These directors are presided over by the Chief Justice of the Supreme Court of the State, who is made *ex-officio* President.

"The Dean shall be one of the Faculty of the University, and the President thereof shall issue all diplomas, etc. A suitable hall shall be provided by the State at the University for the use of the students, and a similar hall by the Board of Supervisors at San Francisco, and to be appropriated to lectures and examinations.

"Students may be matriculated, and become or remain residents of the University.

"This will include students in San Francisco and other parts of the State.

"The founder has proceeded not only to found but to *establish* the college in the following manner, viz.:

"He has applied for suitable halls at the University at Berkeley and at San Francisco, and has created the office of Proctor, who shall be a post-graduate of the University and himself a student.

"The duty of the Proctor shall be to constantly observe the conduct of the students in residence at the University, their habits of application, etc., and shall at all times respond to any questions which may be submitted to him, and when in doubt shall refer such questions to the Professor, at such times as the Professor shall be present.

"It shall be the duty of the Registrar to keep his office at San Francisco, receive and record all applications for matriculation, keep all the correspondence for the college, and specially to perform all the duties which may be imposed upon him by the Dean; and to keep a record of all the proceedings of the Directors, and to obey the Directors in all

things, and to enter in some book of records the names of post-graduates resident at the University, and the names of all students who shall receive examinations and lectures at the hall in San Francisco.

"The home or principal college, being itself the Law Department of the University, is established at Berkeley. The hall at San Francisco shall be auxiliary thereto as a part of said college, and the students who graduate from the San Francisco department shall have equal standing with the students at the University.

"It is the duty of the Dean to do all the business of the college, and to provide for lectures and examinations, and to discharge all the functions pertaining to his office, whether imposed by the Directors, or otherwise, and while he shall receive no salary out of the college funds for services, nothing herein shall prevent him receiving an honorarium from any source, the duties of this office being, from an elevated professional standpoint, deemed to be above a sordid pecuniary reward for services.

"There being at present no professorships founded, there shall be one professor known as the Professor of Municipal Law, whose duties shall be to lecture and examine the students at the University as often as he shall be directed by the Dean and Directors, and in the same manner at the lecture hall at San Francisco.

"This professor shall be appointed or removed by the Directors, and shall receive such salary as directed by them.

"This being the first post-graduate college of the University of California, great care shall be observed that no person shall enter as a student who shall be unworthy of a college of the eminent position it assumes, but the founder (and he hopes his descendants) will look upon the rejection of any applicant or student on account of his poverty or limited means of support as a calamity subversive of the object of the foundation.

"So far, there are no professorships established (except the one before mentioned), but with others, there will be provided the following, viz.: a chair of physiology and medi-

cal jurisprudence, and what is deemed of great importance, a chair of the science and ethics of the law and rules of morality. Until further endowments can be had, permanent professors can not be employed (except the professor of municipal law), and until then occasional lecturers will be supplied, and I am happy to state that in these departments of instruction there will be no want, for the present, of eminent men to do the work. And to this end I am permitted to announce the names of Dr. C. M. Hitchcock, the distinguished ex-army surgeon; Drs. J. Campbell Shorb and Benjamin R. Swan.

"These gentlemen are well-known lecturers on science and medicine.

"In the department of ethics and rules of morality I find an unexpected reluctance on the part of eminent divines to enter the work, but it is with great pleasure that I have the hearty consent of that eminent divine, the Rev. W. H. Platt, Rector of Grace Church, to supply precisely the kind of lectures needed. This gentleman is celebrated for his eloquence, science, and religion, and was once a lawyer in a successful practice.

"In this college there should be a three years' course, each law year to be the same as the academic year of the University.

"The first two years should be devoted to abstract and elementary law, and the third and graduating year to the study of codes and practice; and for this last year there should be organized a system of moot courts involving all questions of evidence, pleading and practice, and to facilitate the object of these courts, arrangements will be made under the Act of the Legislature for the use of the Law Library in San Francisco. This library belongs to the Law Library Association, and is of great value, being equal to any library of the kind in the United States.

"There will be published, as soon as the Directors can act, a curriculum of studies. I suggest that students, as provided by law, be permitted to matriculate, who reside in any part of the State, and to pursue their studies where they

reside. The terms and qualifications of applicants for admission will be made known. There will probably be no examination of graduates of colleges who are otherwise qualified, but non-graduates must understand that a limited knowledge, especially of the Latin language, will be required. Lectures and examinations for at least once a month will be had at San Francisco and at the University. There will be provision made for examination of applicants for advanced standing, so that it is expected there will be a number of students who will enter upon the second and third year at the commencement of the first term.

"The founder of this institution desires it to be understood that the term *student* is not limited to a young man without a diploma; for he never knew a good lawyer, no matter how well stricken in years, who was ashamed to acknowledge that he is as much a student as when he was in the days of his noviciate.

"This institution is intended to supply a substitute for the Inns of Court, the historic Inner Temple, a temple of the law, which shall extend its arms and draw within its portals all who shall be worthy to worship at its shrine, resulting in the coronation of its votaries as a reward for application, industry, and merit."

THE Supreme Court of Minnesota, in the *State vs. Arming-ton*, held, in a decision rendered April 25, 1878, that a divorce granted by a Utah court, where neither of the parties ever acquired a *bona fide* residence in Utah and were both during the conduct of the divorce proceedings residents of Minnesota, was not valid in Minnesota and not a protection against the consequences of a second marriage, and a belief in its validity was not a defense to an indictment for bigamy.

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Counsel for the College Defendants

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO (UNLIMITED JURISDICTION)

HASTINGS COLLEGE CONSERVATION
COMMITTEE, an unincorporated association of
alumni of Hastings College of the Law;
STEPHEN HASTINGS BREEZE, an individual;
STEPHANIE AZALEA BRACKEL, an
individual; CATHERINE TORSTENSON, an
individual; SCOTT HASTINGS BREEZE, an
individual; COLLETTE BREEZE MEYERS, an
individual; and COLIN HASTINGS BREEZE,
an individual,

Plaintiffs,

v.

STATE OF CALIFORNIA; DAVID FAIGMAN,
in his official capacity as Chancellor and Dean of

CASE NO. CGC-22-602149

PROOF OF SERVICE

HEARING:

Date: December 29, 2022

Time: 9:30 a.m.

Dept: 302

Judge: Hon. Richard B. Ulmer Jr.

Action Filed: October 4, 2022

Trial Date: None Set

1 Hastings College of the Law; SIMONA
2 AGNOLUCCI, in her official capacity as chair of
3 the Board of Directors of Hastings College of the
4 Law; CARL ROBERTSON, in his official
5 capacity as vice chair of the Board of Directors
6 of Hastings College of the Law; SHASHIKALA
7 DEB, in her official capacity as a director of
8 Hastings College of the Law; MICHAEL
9 EHRLICH, in his official capacity as a director
10 of Hastings College of the Law; ANDREW
11 GIACOMINI, in his official capacity as a
12 director of Hastings College of the Law;
ANDREW HOUSTON, in his official capacity as
a director of Hastings College of the Law;
CLAES LEWENHAUPT, in his official capacity
as a director of Hastings College of the Law;
MARY NOEL PEPYS, in her official capacity as
a director of Hastings College of the Law;
COURTNEY POWER, in her official capacity as
a director of Hastings College of the Law;
ALBERT ZECHER, in his official capacity as a
director of Hastings College of the Law; and
DOES 1-25, inclusive,

13 Defendants.
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1 **PROOF OF SERVICE**

2 I, Matt Aidan Getz, declare as follows:

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 eighteen years and am not a party to this action. My business address is 333 South Grand Avenue,
5 Los Angeles, CA 90071, in said County and State. On December 8, 2022, I served the following
6 document(s):

7 **COLLEGE DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR**
8 **PRELIMINARY INJUNCTION**

9 **DECLARATION OF DEAN DAVID FAIGMAN IN SUPPORT OF COLLEGE**
10 **DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR**
11 **PRELIMINARY INJUNCTION**

12 **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF COLLEGE**
13 **DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR**
14 **PRELIMINARY INJUNCTION**

15 **DECLARATION OF MATTHEW S. KAHN IN SUPPORT OF COLLEGE**
16 **DEFENDANTS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF**
17 **OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY**
18 **INJUNCTION**

19 on the parties stated below, and by the following means of service:

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Attorneys for Defendant State of California

1 ☒ **BY ELECTRONIC SERVICE THROUGH AN EFSP:** On the above-mentioned date, I caused the documents
2 to be sent to court-approved e-filing service provider ("EFSP") First Legal Network for electronic service and
3 filing. Electronic service will be accomplished by First Legal Network's case-filing system at the electronic
4 notification addresses as shown above.

5
6
7
8 ☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is
9 true and correct.

10 Executed on December 8, 2022.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO (UNLIMITED JURISDICTION)

HASTINGS COLLEGE CONSERVATION
COMMITTEE, an unincorporated association of
alumni of Hastings College of the Law;
STEPHEN HASTINGS BREEZE, an individual;
STEPHANIE AZALEA BRACKEL, an
individual; CATHERINE TORSTENSON, an
individual; SCOTT HASTINGS BREEZE, an
individual; COLLETTE BREEZE MEYERS, an
individual; and COLIN HASTINGS BREEZE,
an individual,

Plaintiffs,

v.

STATE OF CALIFORNIA; DAVID FAIGMAN,
in his official capacity as Chancellor and Dean of

CASE NO. CGC-22-602149

**DECLARATION OF DEAN DAVID
FAIGMAN IN SUPPORT OF COLLEGE
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

HEARING:

Date: December 15, 2022

Time: 9:30 a.m.

Dept: 302

Judge: Hon. Richard B. Ulmer Jr.

Action Filed: October 4, 2022

Trial Date: None set

1 Hastings College of the Law; SIMONA
2 AGNOLUCCI, in her official capacity as chair of
3 the Board of Directors of Hastings College of the
4 Law; CARL ROBERTSON, in his official
5 capacity as vice chair of the Board of Directors
6 of Hastings College of the Law; SHASHIKALA
7 DEB, in her official capacity as a director of
8 Hastings College of the Law; MICHAEL
9 EHRLICH, in his official capacity as a director
10 of Hastings College of the Law; ANDREW
11 GIACOMINI, in his official capacity as a
12 director of Hastings College of the Law;
ANDREW HOUSTON, in his official capacity as
a director of Hastings College of the Law;
CLAES LEWENHAUPT, in his official capacity
as a director of Hastings College of the Law;
MARY NOEL PEPYS, in her official capacity as
a director of Hastings College of the Law;
COURTNEY POWER, in her official capacity as
a director of Hastings College of the Law;
ALBERT ZECHER, in his official capacity as a
director of Hastings College of the Law; and
DOES 1-25, inclusive,

Defendants.

1 any) in the displacement, mistreatment, or killing of indigenous people in northern California in the
2 mid- to late nineteenth century. Professor Lindsay submitted his initial report to the College in May
3 2018 and continued to update and revise his report through December 2021. The final report, a true
4 and correct copy of which is attached as **Exhibit 1**, spans over 100 pages and catalogs extensive
5 historical evidence establishing that, like many prominent landowners at that volatile moment in
6 history, S.C. Hastings was involved in a sustained campaign of violence and other atrocities against
7 indigenous people.

8 6. I also participated in a day-long symposium in September 2018 to address Hastings's
9 legacy, which was organized by two of the College's professors. That symposium offered a valuable
10 opportunity to discuss not only the history, but also how a public institution like the College should
11 act to take responsibility for, and to combat the ongoing effects of, past injustices.

12 7. In addition, working with several of my colleagues, I also began efforts to forge a
13 productive, ongoing relationship between the College and the Round Valley Indian Tribes. Those
14 efforts included visiting the reservation in Covelo and hosting members in San Francisco. This was
15 the start of what has become a years-long relationship with the leadership of the Tribal Council, as
16 well as the Yuki People, one of the Round Valley tribes whose ancestors were most prominently
17 harmed by the violence affecting S.C. Hastings's landholdings.

18 8. In July 2020, my office received the report of the HLRC, a true and correct copy of
19 which is attached as **Exhibit 2**. Based in part on Professor Lindsay's research into S.C. Hastings's
20 role in campaigns of violence against and displacement of indigenous communities, the HLRC
21 recommended that the College publicly respond and establish restorative-justice programs to assist
22 tribal communities. Although the HLRC reached a consensus about such restorative-justice
23 programs, it was divided over whether the College should be renamed, and ultimately the
24 committee's members presented differing views about the name-change question to my office for
25 future consideration.

26 9. In September 2020, after reviewing the HLRC's report, I sent the College's Board of
27 Directors ("Board") a memorandum in which I enclosed and endorsed the HLRC's recommendations.
28 In that memorandum, a true and correct copy of which is attached as **Exhibit 3**, I expressed my

1 opinion that the College should undertake efforts, in collaboration with the Yuki People and other
2 tribal communities, to redefine its relationship to indigenous people and to help repair some of the
3 effects of the violence against and forced displacement of indigenous communities. To that end, I
4 detailed a series of restorative-justice initiatives that I believed the Board should adopt.

5 10. My memorandum to the Board also included an initial discussion of whether to change
6 the College's name, which I emphasized was a change that should not be undertaken lightly. My
7 view at that time was that the College's name should not be changed, though I remained open to
8 continued conversations and inquiry. I recognized that the College had borne the name Hastings for
9 over a century and that the question whether the name should be changed was one that divided many
10 students, alumni, faculty, and members of the Round Valley Indian Tribes and the Yuki People. My
11 initial opinion was that the College should first focus on launching restorative-justice measures where
12 we could achieve agreement and collaboration between the College and the tribes. As I explained in
13 my memorandum to the Board, one of the most important considerations to me at the time was that
14 S.C. Hastings had "fallen into relative obscurity," which meant that his name was "unlikely to
15 communicate any significant message" to the broader public.

16 11. My memorandum to the Board marked a new phase in deliberations over S.C.
17 Hastings's legacy and how the school should respond to it. The Board and my office began an
18 extensive process of considering and implementing restorative-justice measures and forging a
19 relationship of trust and communication with the Yuki People and other Round Valley Indian Tribes.
20 In July 2021, I co-authored an editorial in the *Sacramento Bee* about those efforts with James Russ,
21 president of the Round Valley Indian Tribes. In that editorial, a true and correct copy of which is
22 attached as **Exhibit 4**, we explained the College's ongoing efforts to collaborate with tribal
23 leadership. We also explained that "no outcome, including changing the school's name," was off the
24 table as the College continued to reckon with its past and to work proactively toward its future.

25 **II. The College's Decision Changing the School's Name**

26 12. As those conversations continued, many Board members, alumni, faculty, and students
27 told my office that they felt that the ongoing association with the Hastings name would harm the
28 College's interests, its reputation, and its relationships both with indigenous communities and with

1 other stakeholders. Those conversations intensified after the *New York Times* ran a prominent article
2 discussing S.C. Hastings and the role he played in violence against indigenous communities. That
3 article brought fresh urgency to the question of a possible name change and put an end to the relative
4 obscurity of the Hastings name; particularly after the article, many more members of the College
5 community and other members of the general public became aware of Hastings's legacy and
6 therefore invested in the possibility of a name change.

7 13. My own views on the College's name continued to evolve, particularly as I spoke to
8 more stakeholders and further considered what it would be like for the school to continue to operate
9 under the Hastings name. The school's name also became an increasingly prominent aspect of my
10 conversations and collaborative efforts with members of the Round Valley Indian Tribes and the
11 Yuki People. Those conversations indicated that removing the Hastings name had become a very
12 high priority for the Round Valley Indian Tribes and the Yuki People, such that it needed to be
13 addressed first in order for collaboration on other restorative-justice efforts to proceed. Ultimately, I
14 came to the conclusion that a new name would be vital to our efforts to collaborate with tribal
15 leadership and would give the school the best opportunity to grow and prosper in the years to come.
16 Doing so would acknowledge our namesake's involvement in violence against indigenous people in
17 California. It would also allow the College to move forward into a new chapter, continuing to attract
18 top talent to the ranks of its students, faculty, and staff and ensuring a positive reputation in the
19 broader legal community.

20 14. In November 2021, the Board passed a resolution to remove Hastings from the
21 College's name and to authorize the College's leadership to work with state legislators to make the
22 corresponding change to the Education Code. That resolution, a true and correct copy of which is
23 attached as **Exhibit 5**, received the unanimous support of all Board members, including Claes
24 Lewenhaupt, the great-great grandson of S.C. Hastings and alumnus of the College who has served
25 on the Board since 2006.

26 15. Following that resolution, my office engaged with the Board and other College leaders
27 to discuss what the College's new name should be. Throughout that consultative process, we
28 received and engaged with suggestions from members of the Round Valley Indian Tribes and its

1 Yuki Committee, the Ramaytush Ohlone People (on whose ancestral lands the College sits), faculty,
2 staff, students, and alumni, as well as a variety of other public representatives and officials (including
3 representatives of the Governor’s Office, members of the Legislature, and leadership of the
4 University of California). After considering those diverse views, I concluded that the College’s
5 interests would be best served by a name that emphasized the school’s geographical location in San
6 Francisco—that is, in a vibrant metropolitan area home to some of the world’s most prominent
7 companies and finest institutions of higher learning. I therefore recommended that the Board adopt a
8 geographic name.

9 16. In December 2021, the Board passed another unanimous resolution, a true and correct
10 copy of which is attached as **Exhibit 6**. The Board endorsed my recommendation of a geographic
11 name and directed my office to seek consensus, including in further discussions with the Tribal
12 Council of the Round Valley Indian Tribes, on removing “Hastings” and adding “San Francisco” to
13 the school’s name.

14 17. Throughout the first half of 2022, my office, in collaboration with members of the
15 Board, had extensive discussions about possible new names for the school. Those discussions
16 involved leadership of the Round Valley Indian Tribes and the Yuki People, as well as other College
17 stakeholders. My office also began coordinating outreach to Assemblymember James Ramos and
18 other state legislators, explaining that if the College changed its name it would request a legislative
19 amendment to the Education Code to conform state statutes to the new name.

20 18. As my collaboration with the Board, College leadership, tribal leaders, and other
21 stakeholders over the name change continued, so too did public debate over the merits of changing
22 the College’s name. For instance, a number of alumni publicly objected to the Board’s decision to
23 remove Hastings from the school’s name and disagreed with the historical basis for that decision,
24 much of which was drawn from Professor Lindsay’s white paper. Accordingly, the Board convened
25 an ad hoc committee to evaluate Professor Lindsay’s conclusions, the evidence on which they were
26 based, and the arguments of alumni who opposed the name change.

27 19. That committee submitted a report to the Board and my office, a true and correct copy
28 of which is attached as **Exhibit 7**, after meeting with Professor Lindsay, examining him about the

1 bases of various assertions in the paper, requesting additional analysis, and reviewing submissions
2 from alumni (including Judge Richard S. Flier and Kristian Whitten) who objected to the name
3 change. Ultimately, the committee confirmed that the historical evidence supports Professor
4 Lindsay’s conclusion that S.C. Hastings “engaged in conduct that promoted and failed to stop the
5 killings of Indigenous persons in Round Valley.” Even giving Hastings “the benefit of the doubt as
6 to his claimed level of knowledge,” the committee explained, he nonetheless “played a significant
7 role in the grievous wrongs perpetrated against the Yuki Indians during th[at] period.”

8 20. In June 2022, the Board met to discuss the committee’s conclusions. I was present at
9 that meeting, as were various other stakeholders, including the president of the Round Valley Tribal
10 Council, the chair of the Yuki Committee, and Assemblymember Ramos. After receiving the
11 committee’s report, the Board passed a unanimous resolution reaffirming its previous decisions “to
12 remove Hastings from the College’s name” and thanking those who had come forward to share their
13 views and contribute to the deliberative process. A true and correct copy of the minutes of that
14 meeting is attached as **Exhibit 8**.

15 21. After ongoing deliberations over potential new names, the Board held a public
16 meeting in July 2022 at which interested stakeholders shared their views about the College’s name.
17 Legislators, tribal leaders, faculty members, alumni, and Board members (including Mr. Lewenhaupt)
18 spoke. Ultimately, the Board unanimously adopted a resolution changing the College’s name to UC
19 College of the Law, San Francisco. A true and correct copy of the minutes of that meeting is attached
20 as **Exhibit 9**. As the Chair of the Board put it, renaming the school to emphasize its connection to
21 San Francisco, “one of the greatest cities in the world,” was “the overwhelming choice of students,
22 staff and alumni” and matched “the uniform approach” of other University of California schools.

23 22. After the Board voted on the College’s new name, I sent an email to the College
24 community. In that email, a true and correct copy of which is attached as **Exhibit 10**, I explained that
25 the Board’s decision was the result of an extensive consultative process that engaged with the views
26 of all of the school’s constituencies. I also explained that the Board’s decision comported with the
27 vast majority of expressed views on the subject—for instance, 78% of the communications the
28

College received supported removing Hastings from the school's name, and 67% supported a geographic name to replace it.

23. Additionally, following the Board's vote, my office continued conversations with Assemblymember Ramos and other state legislators on a conforming amendment. Throughout that process, my office explained to various legislators why changing the College's name to UC College of the Law, San Francisco would best serve the school's interests going forward.

24. In August 2022, in response to those efforts, the Legislature passed Assembly Bill ("AB") 1936, which amended various provisions of the Education Code to conform to the school's new name. Governor Newsom signed that bill into law on September 23, 2022. That same day, I sent another email to the College community, a true and correct copy of which is attached as **Exhibit 11**. In that email, I announced the creation of a Name Change Committee, which would oversee the operational transition to the College's new name.

25. I provided another update to the College Community on November 14, 2022. In that email, a true and correct copy of which is attached as **Exhibit 12**, I explained that the College would begin using our new name on January 1, 2023 and would embark on a six-month transition period to implement the new name fully by the beginning of the 2023–24 academic year. That transition period is to involve comprehensive changes affecting the College's physical properties, student organizations and centers, websites and email addresses, accreditation, and communications and branding efforts.

III. Delaying the Implementation of the Name Change Would Irreparably Harm the College

26. I understand Plaintiffs are seeking a preliminary injunction that, if entered, would prevent the College Defendants from doing anything to comply with, effectuate, or otherwise carry out the change in the College's name. That relief, by maintaining the Hastings name and preventing the College from using the new name it selected, would cause extensive and irreparable harm to many aspects of the College's finances, operations, relationships, and reputation.

A. The College's Nine-Figure Comprehensive Campaign

27. I recently began my second five-year term as Dean. This term promises to be an important one in the College's history. For one thing, the school is currently at the outset of one of

1 the boldest and most significant initiatives it has ever undertaken: the design and construction of a
2 vibrant, multidisciplinary Academic Village, which will transform the campus, revitalize the
3 San Francisco neighborhood in which the College is located, and create a rich interdisciplinary
4 environment to attract the best students and faculty.

5 28. For another, the College has begun a nine-figure comprehensive campaign to increase
6 the school's endowment and financial stability. Relative to its reputation, size, history and alumni
7 population, the College has a small endowment. A major priority of my second term as Dean is to
8 solicit gifts and contributions to substantially increase that endowment. That type of strong financial
9 foundation would be invaluable for an institution like the College. Among other things, it would
10 allow the school to continue to invest in its students, faculty, staff, and campus; to increase
11 scholarships to help attract and retain the best students; to expand our high-quality faculty with
12 additional endowed chairs; to invest in legal research; and to develop additional programming to
13 enrich the educational environment.

14 29. The College has been planning and laying the foundation for that comprehensive
15 campaign for over a year. That planning has involved developing not just targets and goals for the
16 campaign, but also the vision and narrative the College would present to future donors. Recently, the
17 campaign entered the critically important "silent phase," which the school anticipates will ultimately
18 account for roughly half of the entire fundraising campaign. As part of that silent phase, I, along with
19 my advancement team and others, am in direct and ongoing communication with many of the
20 College's most significant potential donors.

21 30. The College's new name is a cornerstone of those fundraising efforts. The vision the
22 College has presented to its supporters is one in which the school embarks on a transformational new
23 path, one that takes full advantage of its history and location in the heart of San Francisco. The
24 Academic Village is a key part of that story, but so too is the College's new name, which reinforces
25 that geographical connection and provides appealing opportunities for changes in the school's
26 branding and marketing efforts and growth in the school's broader reputation.

27 31. Delaying implementation of the name change would have a profound effect on those
28 ongoing fundraising efforts. Because the new name is central to the story the College has pitched to

1 donors, reversing course on that story would jeopardize the donors' confidence in the school's
2 stability and future and their willingness to be foundational donors to the campaign. And a dramatic
3 decrease in the success of the comprehensive campaign would, in turn, have immeasurable harmful
4 effects into the future, depriving the College of the financial resources required to compete for the
5 best students and faculty and invest in its facilities and programs.

6 **B. Recruitment and Marketing Efforts**

7 32. Another major focus of my second term as Dean is increasing the College's national
8 and international reputation. The College is well known and highly respected throughout the country,
9 but particularly so in California and on the West Coast; potential students on the East Coast and
10 abroad have less immediate familiarity with the College. The College's new name, by building on its
11 location in one of the world's most significant and well-known cities, is a core part of those efforts to
12 build our reputation.

13 33. This is a particularly important moment for the College's recruitment and marketing
14 efforts. Winter and spring are the busiest seasons for the College's admissions department, which is
15 actively engaged with potential students and is competing with other law schools throughout the
16 country to build a class of driven, bright, and diverse students. Our admissions team has spent
17 countless hours communicating the fact of and reasons for the name change to prospective students,
18 and that change has generated curiosity and excitement for potential students.

19 34. Ambiguity surrounding the name of our law school will inevitably interfere with the
20 College's admissions efforts. In the highly competitive, zero-sum world of law school admissions, a
21 school's inability to market itself with confidence and clarity will severely hurt its chances of
22 recruiting excellent students. The relief Plaintiffs are seeking, to the extent it would prevent the
23 College and its admissions department from using the school's new name in its marketing efforts,
24 would reduce the College's ability to attract the greatest number of prospective students.

25 35. Delaying the implementation of the name change would be highly damaging in
26 additional respects. First, the College knows from engaging with its stakeholders that an
27 overwhelming majority of prospective students likely support the Board's decision to remove the
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1 Hastings name. Requiring the College to maintain that name in a key stage of the admissions process
2 could harm the school's ability to recruit those students.

3 36. Second, uncertainty over the school's name could also affect the College's recruitment
4 of new faculty and retention of current faculty. Although the reputation and attractiveness of a
5 scholarly institution are the product of diverse factors, ultimately the name of that institution
6 encapsulates what the school is and what it stands for. As a faculty member myself, I take pride in
7 belonging to a campus of the University of California and regularly identify myself with that campus
8 in my scholarship and when I give presentations around the country. Ambiguity infecting the name
9 of that campus is a serious loss of value for me and my colleagues.

10 37. Third, another constituency the College must consider is the broader legal community,
11 including prospective employers of law students and lawyers. Renaming the College to focus on the
12 school's location in and connection to San Francisco will give the school a way to connect to a wider
13 audience than was possible using the name "Hastings," which is not as well-known outside
14 California. Delaying the College's ability to implement its new name will deprive the College, and
15 by extension its students and alumni, of that advantage. And for some potential employers, an
16 ongoing association with a controversial name like Hastings could even prove a detriment for
17 students and alumni. Indeed, our expansive employer community is already enquiring about the new
18 name. Communicating clearly and consistently with employers over the last year has been vital to
19 the future of our students' employment opportunities. Ambiguity now on that issue will only create
20 confusion and undermine those efforts.

21 **C. The College's Relationship to Current Students**

22 38. Preventing implementation of the College's name change would harm not just its
23 attractiveness to prospective students, but also its relationship with current students.

24 39. I understand Plaintiffs have suggested that implementing the name change would harm
25 the graduating students. Respectfully, I believe those concerns are misstated, or at least substantially
26 overstated. As part of the extensive process in which the College considered removing the Hastings
27 name and replacing it with the new name, my office interacted with many key stakeholders, including
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1 members of the graduating class. The great majority of students who shared their views *supported*
2 the name change. Reversing course now would only cause confusion and frustration.

3 40. The same is true for all other students of the College, including the first- and second-
4 year classes. Students in those classes likewise overwhelmingly support, and indeed have applauded,
5 the decision to change the school's name. The College's relationship of trust with those students
6 would be damaged if the name change were to be delayed. And those students would be forced to
7 remain under the banner of a name that for them represents atrocities against indigenous people.

8 **D. The College's Identity and Relationship to Other Key Stakeholders**

9 41. Delaying the College's name change would have a profound effect on the College's
10 identity, reputation, and relationship with a variety of other stakeholders.

11 42. For instance, my office, along with other College leadership, has engaged extensively
12 with tribal leadership in the Round Valley and across the state. We have worked to build trust one
13 conversation at a time, and many of those conversations were difficult and full of pain. And
14 throughout those conversations, particularly during the last year, the overwhelming majority of the
15 leaders of indigenous groups with whom we interfaced supported removing the Hastings name,
16 which they associated with a brutal period of violence against and forced displacement of their
17 ancestors. The same goes for both the people of the Round Valley Indian Tribes and the Ramaytush
18 Ohlone People. The College's commitment to changing the school's name was the product of those
19 conversations and a critical part of the ongoing collaborative efforts that my office and other College
20 leaders have undertaken with tribal communities.

21 43. Forcing the school to operate under the Hastings name after our formal and public
22 commitment to change that name will place unfortunate strain on our relationships with tribal leaders
23 and could well lead to feelings of betrayal among indigenous communities. And the fallout from that
24 harm would not be limited to the school's name. For our partners in the tribal community, the name
25 change has come to represent a vital first step in the process of restorative justice. James Russ,
26 president of the Round Valley Indian Tribes, expressed as much to the Board, explaining that
27 changing the school's name would allow the College and tribal leaders to focus their energies on the
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1 many other restorative-justice efforts under development. Putting the name change in a state of
2 uncertainty could discourage tribal leaders from further participation in those efforts.

3 44. In addition, the College is a public institution, and in that sense it is broadly
4 responsive to the public and the communities it serves. As the near-unanimous support with which
5 AB 1936 was passed demonstrates, the public overwhelmingly supports the name change. Delaying
6 that name change will not only subvert the expressed preferences of state legislators and the voters
7 who elected them into office, but also subject the College to criticism from members of the public for
8 whom the Hastings name represents a legacy of serious injustices against indigenous communities.

9 45. Finally, an institution's name is inseparable from its identity, and in this case the
10 College determined that maintaining the Hastings name would send the wrong message about the
11 institution's identity and values. Even temporarily denying the College the right to define how it
12 relates to the public and forcing it to use the Hastings name against its will would cause serious harm.

13 **E. Securing Funding for the Name Change**

14 46. In petitioning the Legislature for a law to conform the Education Code to the
15 College's new name, my office and other College leadership engaged in extensive communications
16 with state legislators. Those communications were fruitful, and as a result, AB 1936 passed with
17 overwhelming support (and zero "no" votes).

18 47. The Legislature's Budget Act of 2022 included a one-time appropriation of \$885,000
19 to implement the name change. The College estimates that an additional \$2,867,000 is required to
20 implement the name change fully. The College has formally petitioned the State for that funding; as
21 of now, its request remains outstanding.

22 48. Delaying implementation of the name change could make it much harder for the
23 College to obtain the funding it needs from the Legislature. The school's extensive outreach efforts
24 throughout the deliberations over the name change and AB 1936 give it the best chance of obtaining
25 broad support for that funding in the 2023–24 budget year. But a delay could cause the College to
26 lose that support, as the issue fades from view and legislators turn their attention to other pressing
27 matters. If that opportunity were squandered, the College could well struggle to acquire the
28 necessary funding in the future, and could be forced to finance the name change using valuable

1 tuition resources. This generation of law students should not be made to pay for atrocities carried out
2 under color of state law more than 160 years ago.


3 **F. The Planning and Implementation Process**

4 49. Finally, the College estimates that changing the name will involve an approximately
5 six-month process. Beginning that process in January will permit the College to have its new name
6 fully in place by the time the next academic year begins. Delaying that process may mean the name
7 change would still be underway by the start of the next academic year, and that in turn could prove
8 highly disruptive to the College.

9 50. Delaying the name change would also result in a substantial loss of time and effort
10 already spent in preparing to transition to the new name. The College has already contracted with
11 vendors and performed extensive work to prepare to transition the school's physical and virtual
12 spaces to the new name. Much of that work will have to be redone if the change is delayed. And a
13 delay would itself lead to a waste of valuable resources, as the College would have to undertake
14 significant steps to undo the work and preparation it has already done to prepare the school and the
15 community for the name change.

16
17 I declare under penalty of perjury under the laws of the State of California that the foregoing
18 is true and correct.

19
20 Executed in San Francisco on this 8 day of December, 2022.

21
22
23 
24 David Faigman

Faigman Declaration

Ex. 1

Serranus Clinton Hastings in Eden and Round Valleys

White Paper

Prepared for the Hastings Legacy Review Committee by:
Brendan Lindsay, Ph.D.

Submitted: May 23, 2018
Final Revision: December 14, 2021

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STATEMENT OF PURPOSE

This white paper explores the actions of Serranus Clinton Hastings in the historical context of the California Gold Rush, and what role, if any, he played in atrocities committed against California Indian peoples living in and around Eden and Round Valleys near the present-day town of Covelo in Mendocino County during the 1850s and 1860s. As founder, endower, and namesake of the University of California's Hastings College of the Law, this is vital to our understanding of the history leading up to the establishment of the college in 1878.

EXECUTIVE SUMMARY

The story of Serranus Clinton Hastings is both unique and commonplace. Commonplace in that he is emblematic of many Americans arriving in California following the discovery of gold in 1848: Hastings came seeking greater fortune, acquired public land, and sought to build a new life for himself and his family. Much like his countrymen, he had little concern for Indian peoples, beyond the threat they posed to his property. He is unique in the scale of his landholdings, his lasting wealth, his public notoriety, and, especially, his political power and influence. Unlike most others who came for the Gold Rush, Hastings became lastingly wealthy owing to his entrepreneurial activities and investments, a portion of which came from his landholdings.

After a successful political career in territorial and state politics in Iowa, Hastings came to California as part of the Gold Rush. Unlike most of his fellow fortune-seekers, he determined to achieve his wealth outside of the Mother Lode, through a combination of public service, legal practice, and entrepreneurship. In all of these pursuits he achieved success, particularly in his entrepreneurial pursuits.

Hastings arrived with a prominent reputation owing to time in the territorial and state legislatures and as a one-term member of the U.S. House of Representatives for Iowa, where he was also chief justice of the state's highest court. Arriving in California, being a well-known and prominent Democrat, Hastings became the first Chief Justice of the California Supreme Court. Following his judicial appointment and time on the bench, he served as the state's third attorney general. While there is significant evidence that Hastings was heavily involved in banking and real estate ventures while in these offices, there is no evidence that he used these positions in any official capacity to further his interests. Having cemented strong political connections in the state, Hastings left public service and turned his eye to pecuniary pursuits.

Focusing on real estate speculation and acquisition, Hastings became one of the largest landowners in California, owning many tens of thousands of acres throughout the northern half of the state. The money to acquire these lands came from a modest nest egg brought with him from Iowa, his salaries as chief justice and attorney general, legal fees received as a practicing attorney, the proceeds of individual and corporate banking and finance activities, logging, and the profits generated by agriculturally driven businesses (including farming, stock raising, and viticulture). Most of all, cycles of land purchase, sale for profit, and acquisition of new properties, combined with the revenues generated by leases of his properties, account for his notable wealth. It is because of the centrality of land to his fortune that questions arise about his role in negatively influencing Indian-white relations in Northern California. Indeed, some have charged that he is responsible in part for fomenting violence and atrocity against California Indians, particularly in and around his holdings in Eden Valley.

According to the historical record—including depositions, letters, and statements by Hastings's contemporaries—significant proof exists that this was the case. Serranus Hastings purchased all of Eden Valley, drove hundreds of head of livestock there, and had a series of stockmen manage his herds. As Eden Valley was home to approximately six hundred Yuki people at the time, the combination of violent stock managers mistreating Indian people and competition for resources created a strained relationship that led to cycles of violence in the valley, as well as in nearby Long and Round Valleys. Particularly in colder months, the Yuki came onto the valley floor to forage for grass seeds, acorns, game, and fish, only to find the grass eaten and the game driven off by large herds of cattle and horses, the acorns eaten by hogs, and the path to rivers and streams blocked by white settlement. As a result, the Yuki raided stock to subsist. In

retaliation, white ranchers and settlers killed the Yuki. In response, the Yuki killed more stock—now in retaliation, not just to eat—and, rarely, also killed white men. This cycle repeated, over and over. It is important to note, this state of affairs was not unique to the region or for men like Hastings: these cycles of violence existed throughout the state of California in the 1850s and 1860s. While not unique, it is important to note that there were some contributing factors to this often-seen cycle that were indeed exceptional in the case of Eden and Round Valleys.

Hastings's first stock manager, H. L. Hall, who both watched the cattle and horses and operated a farm with over fifty Indian workers, mistreated the local Indigenous population. Hall, known for his violence against Indians, abused and cheated Indian workers, and whipped them if they complained. This led to Yuki retaliation against the stock housed in the valley. Hall not only went out on brutal retaliatory raids against the Yuki, he also notified Hastings of the threat to his investments—without telling Hastings of his role in starting the trouble. Hastings responded by bringing his considerable political and financial influence into play.

Hastings visited Eden Valley, had personal and community meetings with settlers in the region (the settlers primarily lived to the north, in adjacent Round Valley, not in Eden Valley itself), and suggested forming a volunteer company to suppress local Indian populations. He dictated the petitions sent to the governor—a friend of his—and offered to finance the operations of the company until state or federal funds could reimburse these efforts. For those hesitant to support such actions, Hastings personally implored individuals to reconsider. He also wrote military commanders and the governor personal letters urging action. In his letters to the governor, he offered to provide salaries and supplies, as well as facilitate the formation and operation of the volunteer companies. Assisting him in this was his business partner, Thomas J. Henley, the Superintendent of Indian Affairs for California. Henley made his home in Round Valley, which also contained a reservation—the Nome Cult Indian Farm. Henley's interests were well-served by formation of a volunteer company: The company would suppress local Indian resistance and bring prisoners there, which would augment the reservation workforce—a workforce Henley and his cronies were using to work their farms, sawmill, and ranching operations, free of charge and at the expense of the federal government. In advance of the governor's approval, Hastings selected a captain for the company and encouraged its formation. Indeed, the Eel River Rangers, as they called themselves, took the field without authorization.

The operations of the company seem to have been well known to Hastings. The captain of the Eel River Rangers, Walter S. Jarboe, a notoriously violent “Indian fighter,” kept Hastings apprised of the Rangers' activities in back-channel reports. During these operations, Hastings continued to write the governor and monitor developments in the field. He scorned U.S. Army officers in the region, who protected Indian interests rather than advanced white interests. Hastings also gave intelligence to the local press, encouraging them to support the efforts of the Eel River Rangers. For Hastings, Henley, and the local white population, the operations of the Rangers were a huge success.

By the time the Eel River Rangers disbanded in 1860, evidence suggests that Eden Valley had been totally depopulated of Yuki people. This conflict—the Rangers and other white settlers fighting with Yuki over land and resources, July 1859 to January 1860—became known as the Mendocino War. Eventually, it spread into the adjacent valleys and produced disastrous consequences for not only Yuki living there, but other Native American groups as well. Conservatively, approximately six hundred Native Americans were directly killed in Long, Round, and Eden valleys, and many hundreds more taken prisoner and forced into slavery on Henley's Nome Cult Indian Farm or the Mendocino Reservation, or on private ranches and farms as domestic and agricultural slaves (euphemistically called apprentices or servants by whites). This included women and children, some of whom were clearly also being sexually abused by the almost all-white-male population of Round Valley. Evidence also suggests that unauthorized vigilante companies also killed or captured hundreds more Indigenous peoples.

By the conclusion of the Mendocino War in January 1860, word of atrocities had spread to the point that the state sent a five-man investigative committee to the region to take depositions and formulate

a report on the conflict. Made up of members of the California State Senate and Assembly, the investigation produced two reports: a majority report supported by four members, and a minority report authored and supported by one member. The latter report, authored by an assemblyman from Mendocino County, supported the efforts of the local settlers. The majority report condemned what had happened as despicable. Neither report, however, produced any substantive outcomes. Even though many of the depositions taken included clear evidence of criminal behavior—including rape, murder, and fraud—no charges were ever brought against the members of the Eel River Rangers or the settlers involved in ad hoc, unauthorized companies operating against the Native population of Round, Long, and Eden valleys. As to Serranus Hastings, he was not called out or singled out for the role he played.

Hastings's holdings were secure, and his direct involvement in the affairs of Eden and Round Valleys ends in the historical record after 1861. But the consequences of his actions and those of his fellow Americans have been lasting and devastating, particularly for the Native Americans driven onto reservations as part of the campaigns Hastings orchestrated. While Hastings did not come under direct scrutiny at the time, the federal government undertook investigations into the activities of Hastings's business partner, Thomas J. Henley, and his agents and employees working at the reservation in Round Valley, uncovering wide-ranging fraud and malfeasance. Despite Henley and his subagent's firings, corruption persisted for decades to come, with a revolving-door of agents and superintendents holding these patronage posts engaging in similar nefarious practices, to the detriment of the Native Americans of Round Valley and California. Violence against the much-depleted California Indian population of the region continued into the 1870s, although on a much-reduced scale. The Round Valley Indian Reservation continued to operate, but with the Yuki no longer forming its core population—the war had so devastated their numbers, they soon became outnumbered by other California Indian groups removed to the reservation, sometimes from many miles away; the Yuki became a minority group on their own land, in their own country. Yuki or not, the reservation remained a horrific place for internees. Corruption by Indian agents was the rule rather than the exception. Native Americans, in addition to the continued specter of violence, rape, and kidnap, suffered from malnutrition, disease, and exposure. Reservation life was further complicated by white squatter's attempts to claim portions of the Round Valley, despite its designation as a federal Indian reservation. Ultimately, the settlers won out, and the size of the reservation reduced to make way for settlement.

By the 1880s, national events began to overtake the surviving Native Americans in and around Round Valley. The Dawes Act, a federal law designed to force Indian assimilation by allotting lands to individuals rather than maintaining tribal holdings in trust passed in 1887. Allotment granted title to individual Indians, then offered the remainder of lands for sale to non-Indians. This resulted in further losses for Native groups unable to resist allotment, including Native Americans in Round Valley. Meanwhile, developments that might have helped the Native peoples interned at Round Valley overlooked or ignored them. For instance, efforts at reform in some parts of the state—especially southern California—concentrated on former Mission Indian populations, and mostly disregarded the rural Native populations in the rest of the state.

American citizenship for Native Americans in the 1920s, Depression-era federal programs, and the rise of employment during World War I and World War II provided some small benefits, but nothing close to ameliorating the extreme poverty found in the Round Valley region. Without the shield of federal Indian treaties, the Yuki and other Indian residents of the valley had few protections and almost no legal recourse. In 1936 the Round Valley Indian Tribe, a conglomeration of the descendants of several Native groups, including the Yuki, achieved recognition by the federal government, following the creation of a tribal constitution and government under the New Deal's Indian Reorganization Act of 1934. Despite federal recognition—something many California Indian groups are still battling for today—life remains difficult for the Native Americans of Round Valley. In the years following World War II, the reservation and its surrounding area have witnessed a steady economic decline. The most recent employment figures for the

reservation suggest an unemployment rate of nearly ninety percent. Meanwhile, to the south, Eden Valley remains non-Native land.

Serranus Hastings, well known as a philanthropist, legal scholar, and California “founding father,” has a complicated legacy, one containing connections to the darkest chapter in the history of California. While one cannot say the \$100,000 endowment made by Hastings in 1878 was drawn entirely from monies generated by his real estate investments in Eden Valley, or the stock he raised and sold that had lived and grazed there, one can argue that some fractional portion of his total fortune certainly did emanate from there—and thus from his actions supporting atrocities against Native Americans, especially the Yuki of Eden and Round Valleys. While many white Californians in the nineteenth century had blood on their hands, either by participation, complicity, or silent acceptance of atrocity, Hastings’s involvement in this episode was nonetheless significant.

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HISTORICAL NARRATIVE

The following narrative contains a minimum of argument or interpretation on the part of the author. Rather, in keeping with the goal of a white paper, the author has attempted to contextualize the actions of Hastings and report the facts in evidence in the historical record using primary and secondary sources, which readers will find listed in the extensive footnotes, appendices, and bibliography.

HASTINGS BEFORE CALIFORNIA

Serranus Clinton Hastings was born in Watertown, Jefferson County, in the state of New York, on November 22, 1814. He was one of seven children born to Robert and Patience Hastings.¹ He attended a prep school, the Gouverneur Union Academy, and later graduated from Hamilton College. After a brief stint as the principal of Norwich Academy in 1834, Hastings emigrated to Lawrenceburg, Indiana, in 1835. He worked as a newspaper editor while he studied law.² Hastings had begun reading the law under the tutelage of a practicing attorney in upstate New York in 1834, and finished under the guidance of Daniel S. Major, an attorney practicing in Lawrenceburg. This private study was common in the Antebellum Era, as there were very few law schools extant. Hastings entered the bar in 1836.³

Hastings relocated to the Wisconsin Territory in 1837. He became a justice of the peace, practiced law, invested in land, and became active in territorial politics as a member of the Democratic Party.⁴ In 1838, the United States created the Iowa Territory from part of the Wisconsin Territory. Hastings, elected

This work is at the behest of the Hastings Legacy Review Committee, of which the author is also a member. Original archival research forms the core of this white paper; some research dates to the author’s Ph.D. dissertation, “Naturalizing Atrocity,” completed at the University of California, Riverside, in 2007. Substantial portions of that earlier work, which I hold copyright to, appear in revised, reorganized, and synthesized form in this paper. Substantial additional research in primary and secondary sources augment this foundational work. The author would like to thank Chancellor and Dean David Faigman, Anne Marie Helm, Jenny Kwon, Tom Gede, and all the members of the Hastings Legacy Review Committee for their feedback and support. The author would like to acknowledge the efforts of Dr. Anne Lindsay, associate professor of history at California State University, Sacramento, for her assistance in transcribing longhand depositions, letters, and petitions from archival repositories. The author is grateful to Tom McCarthy of the O’Brien Center for Scholarly Publications at UC Hastings College of the Law for his valuable assistance in copyediting and formatting this document for public distribution. Any errors of fact or interpretation in this document are the failings of this author alone.

¹ Oscar T. Shuck, *Bench and Bar in California* (San Francisco: Occident Printing House, 1889), 240.

² “Hastings, Serranus Clinton,” Biographical Directory of the United States Congress, accessed March 30, 2018, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=H000330>.

³ Thomas Gordon Barnes, *Hastings College of the Law: The First Century* (San Francisco: Hastings College of the Law Press, 1978), 26.

⁴ Shuck, *Bench and Bar*, 241; Barnes, *Hastings College*, 26.

a member of the territorial legislature, eventually served for eight years in both its lower and upper houses and frequently as a member of the judiciary committee. Following statehood in 1846, he represented Iowa in the U.S. House of Representative as part of the Twenty-Ninth Congress.⁵ It was during this service that he likely met his future business partner, Thomas J. Henley, a Democratic representative from Indiana.⁶ He also became acquainted with men like Abraham Lincoln, Stephen A. Douglass, and John Quincy Adams.⁷ Hastings served a single term, from December 28, 1846, to March 3, 1847, but did not seek reelection. Made Chief Justice of the Supreme Court of Iowa in 1848, Hastings served until 1849, when he resigned his seat on the bench to travel to California.⁸ There, Hastings hoped to acquire land and fortune. Arriving in California after an overland trek from Iowa, he encountered a place very different from anywhere he had yet lived, with layers of laws and land claims and titles stretching back centuries.

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CALIFORNIA BEFORE HASTINGS

Prior to the arrival of Serranus Hastings in 1849, California was already a place in transition, particularly in the occupying, controlling, and claiming of land. Indeed, when he began laying claim to places in California, Hastings became part of a legal tradition already several centuries old. Traditions that, in fact, essentially lay claim not only to land, but to people as well. Native American peoples, according to scientists, have lived in what we now call California for more than fifteen thousand years.⁹ For Native Americans of California, their presence has been and is eternal; created here, they have always been here. Whether one accepts the secular or the sacred explanation, both perspectives agree that California Indian peoples had resided in California for millennia before the Spanish began establishing paper claims to their lands and lives beginning in 1493.

In 1493, following Columbus's so-called discovery of the New World, Pope Alexander VI issued a decree that all lands west of an imaginary and arbitrary line set by him would be the domain of the monarchs of Spain, and that all lands to the east of this line would come under the control of Portugal. Not surprisingly, the pope stipulated that in return for the title to these lands, Spain and Portugal must convert any non-Christians encountered to Catholicism.¹⁰ Thus, the Roman Catholic Church conferred title to

⁵ Shuck, *Bench and Bar*, 241-242.

⁶ "Henley, Thomas Jefferson," Biographical Directory of the United States Congress, accessed March 31, 2018, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=H000499>.

⁷ State Historical Society of Iowa City, *Annals of Iowa, 1872-1873* (Davenport, IA: Day, Egbert, & Fidler, Printers, 1873), 104.

⁸ "Hastings," Biographical Directory; Shuck, *Bench and Bar*, 242.

⁹ Throughout this paper, the author employs a variety of terms when referring to the Indigenous peoples of California. When possible, the author employs the specific names of Native nations/peoples in question. This is the way most Native peoples prefer, if referred to by ancestry. However, this is often impossible, as records typically did not distinguish among various California Indian groups, especially when housed in common on reservations. The author sometimes uses the term "Indian," not out of ignorance of the fallacious nature of the term, but in cases where it reflects the views of historical actors, contemporary to events under discussion. Otherwise, in the narrative of events, the author uses Native, Indigenous, and Native American(s), capitalized, to indicate synonymous reference to—and avoid unnecessary use of—the fraught term, "Indian." It is also worth noting to readers that many—but not all—Native Americans, today, sometimes refer to themselves as Indians; however, this is often an act of resistance through solidarity with other Indigenous peoples of the Americas, in recognition of how they have been—and still are—identified, racially essentialized, marginalized, and denigrated as a single people by Western culture.

¹⁰ The decree in 1493 covered only territory not already Christianized and/or claimed by a Christian nation. It also only applied to Africa and the Western Hemisphere. Later, another decree by the Church would divide Asia and the Eastern Hemisphere between Spain and Portugal. For an English translation of the Papal Bull, see: Pope Alexander VI, "The Papal Bull of 1493 (*Inter Caetera*)," 04 May 1493, Gilder Lehrman Institute of American History, accessed February 26, 2018, <https://www.gilderlehrman.org/sites/default/files/inline-pdf/T-04093.pdf>.

California and most of the Americas to Spain, even though the people and places concerned were overwhelmingly unknown to them.

In 1494, a treaty between Portugal and Spain, the Treaty of Tordesillas, adjusted the papal line of demarcation, allowing Portugal to have a more substantial presence in the so-called New World. Without this adjustment, they would have received only the eastern-most tip of South America. Spain was willing to compromise, leading to what later became Portuguese-controlled Brazil. Meanwhile, the treaty essentially reaffirmed Alexander VI's original decree: both nations would otherwise follow the pope's injunctions and assume title to the lands involved with this slight modification.¹¹ Again, California and its Native American peoples, sight unseen, had had their fates irreversibly altered.

In 1542, Juan Rodríguez Cabrillo, leading a Spanish expedition, euphemistically "discovered" California for Spain.¹² As he sailed up the coast of California, he read out the Requirement to the Indigenous populations he encountered. This was a legal document created early in the sixteenth century by Spanish clergymen and lawyers looking to avoid charges of rape, theft, and murder levelled at their *conquistadores* engaged in the process of conquering the New World and its Indigenous peoples. Required to be read aloud to newly encountered Native populations, the document informed them they were now under the dominion of the Catholic monarchs of Spain, who held title to their lands and possessed powers over them granted by the Church.¹³ That Native Americans did not speak the language was of no consequence to the Spanish. Nonetheless, the language of the Requirement added yet another layer of claims of over Native persons and property.

Spain established a permanent presence in Alta (Upper) California at San Diego in 1769. Relying on the Franciscan mission system, Spain began a limited conquest of Alta California. Eventually, Spain occupied about one-sixth of California, using a series of missions, forts, and agricultural towns. This occupation, too, added a layer of legitimacy to non-Indian claims to California under the Western legal tradition. Yet, despite an occupation that lasted from 1769-1821, California was never a very Spanish place, even as it transitioned to Mexican rule following successful revolution that gave birth to the Republic of Mexico. Few Spanish subjects lived there. About three thousand four hundred non-Indians occupied Alta California at the time of transition, compared to the approximately two hundred twenty-five thousand California Indians still occupying and controlling five-sixths of what is, today, the state of California.

A similar demographic existed after twenty-five years of Mexican occupation and rule. Mexico obtained title to California by agreement with Spain as part of the aftermath of successful revolution. The Treaty of Córdoba ostensibly accomplished this in 1821.¹⁴ Under Mexico, non-Native occupation and control of California land grew only modestly, to about one-fifth of its one hundred million acres. This modest expansion included the secularization of the missions, allowing for the privatization of the system's former holdings and a rapid expansion of private land titles, which Spain had severely limited. Under

¹¹ For an English translation of the treaty, see: "Treaty of Tordesillas," 07 June 1494, Avalon Project, Yale Law School, accessed January 13, 2018, http://avalon.law.yale.edu/15th_century/mod001.asp. Later, the Church officially confirmed the treaty's adjustment of the Bull of 1493, adding yet another layer of legitimacy under Western law.

¹² Since California—indeed, all the lands subjected to European colonialism—had already been discovered, explored, and settled by Indigenous populations well before the arrival of so-called "explorers" on "voyages of discovery" or "pioneers" or "settlers," it is more correct to identify and contextualize Europeans and, later, Americans as invaders rather than explorers or pioneers, and re-settlers or squatters rather than settlers.

¹³ For a review of the Requirement and other policies and practices of conquest and land claims, see: Patricia Seed, *Ceremonies of Possession in Europe's Conquest of the New World, 1492-1640* (New York: Cambridge University Press, 1995). For an English translation of the Requirement, consult: Council of Castile, 1510, "Requerimiento," National Humanities Center, accessed March 2, 2018, <https://nationalhumanitiescenter.org/pds/amerbegin/contact/text7/requirement.pdf>.

¹⁴ For an English translation of the treaty, see: "Treaty of Cordova," Internet Archives, accessed March 31, 2018, <http://www.tamu.edu/ccbn/dewitt/igualala.htm>. The Spanish government rejected the deal their treaty commissioners made with the Republic of Mexico, yet it was a *fait accompli*. In 1836, Spain finally recognized Mexican independence.

Mexican rule, hundreds of titles passed to Mexican citizens and foreign settlers. By 1846, the year of conquest by the United States, however, still only about ten thousand non-Indians, of which perhaps only seven thousand five hundred were Mexican citizens, inhabited Mexican California.¹⁵ Compared with the one hundred fifty thousand California Indians occupying and controlling four-fifths or eighty percent of the land, Mexican California was not very Mexican; it was still an Indian place. The conquest of California during the Mexican-American War and the discovery of gold would change this ratio drastically.

The United States seized California in the summer of 1846 as part of the Mexican-American War. Following American victory in the war, the United States and the Republic of Mexico concluded the Treaty of Guadalupe Hidalgo on February 2, 1848.¹⁶ The treaty settled American debts and paid Mexico for ceded territories—essentially all of the American Southwest, including California—for a sum just under \$20 million. The United States also agreed to grant American citizenship to any Mexican citizens who desired it, as well as to respect the civil and property rights of former Mexican citizens living in the ceded territory, known as the Mexican Cession.¹⁷ These rights were to respect the structures of Mexican law. In practice, though, Americans ignored these rights, especially where Indians were concerned.

This was the California that Serranus Hastings journeyed to in 1849, along with ninety thousand other gold rushers arriving by land and sea in twelve months' time. All of them shared one thing in common: the uncompensated acquisition and exploitation of California Indian lands and resources were essential to their survival and future prosperity.

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HASTINGS AND THE CALIFORNIA GOLD RUSH

American emigrants arrived in California by the tens of thousands each year during the second half of the nineteenth century. Some came by sea, avoiding the perceived peril of Indians but facing instead a dangerous passage that could take five months or more to complete or end in death by disease or shipwreck. Some, like Serranus Hastings, came overland; oftentimes in terror of Indians during a journey often taking four months or more. Flooding the western Sierra Nevada and its foothills, concentrating in the so-called Mother Lode, especially along the rivers and streams flowing down from the melting snows, thousands sought their fortunes by panning, rocking, or hydraulic mining for gold. In 1848, there were only six thousand miners working claims, many of them Mexicans (many from Sonora), California Indians, and Pacific Rim peoples from Hawaii, China, and elsewhere. Beginning in 1849, following news of the discovery of massive quantities of gold in California, more than two hundred thousand Americans poured into California in the next three years, bringing with them negative attitudes about Indians and non-Americans. Existing conceptions of race, religion, and national destiny reinforced these views. By sheer numbers, white Americans overwhelmed non-whites, driving many of them from the gold fields by violence, murder, and legal maneuvering.¹⁸ The Indian population of California, estimated at one hundred

¹⁵ The remainder were mostly American citizens, settled in Mexican California, but refusing to naturalize as Mexican citizens. Many of these settlers received land titles from Mexican authorities anyway.

¹⁶ For a copy of the treaty, see: Treaty of Guadalupe Hidalgo, 02 February 1848, Primary Documents in American History, Library of Congress, accessed February 26, 2018, <https://www.loc.gov/rr/program/bib/ourdocs/Guadalupe.html>. In 1854, the Gadsden Purchase completed acquisition of what we call the American Southwest today.

¹⁷ American citizenship occurred automatically. One had to refuse American citizenship, formally, if one wanted to remain a Mexican citizen. Native peoples were citizens under Mexican law, but seldom respected by Mexico, and never respected by the United States, despite the language of the Treaty of Guadalupe Hidalgo.

¹⁸ Several general studies of the Gold Rush exist, including: H. W. Brands, *The Age of Gold: The California Gold Rush and the New American Dream* (New York: Anchor, 2008); J. S. Holliday, *The World Rushed In: The California Gold Rush Experience* (New York: Simon & Schuster, 1981); and Susan Lee Johnson, *Roaring Camp: The Social World of the California Gold Rush* (New York: W. W. Norton & Company, 2000).

fifty thousand persons in 1848, suffered massive losses as the American population increased dramatically each year. By 1900, the California Indian population was only ten percent of what it had been in 1848.¹⁹

American settlers, miners, and ranchers used violence as well as new and existing state and federal laws to remove the obstacles that Indigenous peoples represented to the acquisition of land. Whether one wanted mineral wealth, grazing pastures, or land to farm, Indian peoples were ubiquitous in California. As gold played out, the American desire to remove or exterminate suddenly “savage” Indians from prime farming and grazing lands increased with each passing year. In 1848, the six thousand miners in California extracted about \$10 million in gold, or just under \$1,700 per person on average. By 1852, the height of the Gold Rush in terms of the value of gold taken in a year, there were around one hundred thousand miners producing \$80 million in gold, or \$800 per person.²⁰ This average rate continued to fall steadily. Since it could cost more than \$800 to come to California, especially by sea, the Gold Rush proved to be a losing proposition for most in the long-term. This helps explain the dramatic shift in what Americans did once in California. As more and more men realized that no easy money lay in the ground from gold, many turned to other ways of making money. Avocations such as farming, ranching, and logging offered a cheap, easy, and profitable alternative to futilely seeking gold. The most perspicacious among them saw this early on, including Serranus Hastings, who never panned for gold.

All one needed to begin was some capital. This was particularly true where land was concerned. Federal and state governments generally offered public lands at \$1.25 per acre through a variety of programs. Some were more generous: the School Land Warrant system passed May 3, 1852, sold public lands for \$2 per acre. In this system, the federal government transferred to the state five hundred thousand acres of public lands—lands home to tens of thousands of Indigenous Californians—that it had gained title to in the Treaty of Guadalupe Hidalgo, without the consultation and consent of the Native peoples of the lands ceded. By selling this land, the state would be able to finance the creation of a public school system from the proceeds.²¹ Given the massive inflation of prices and wages in California, and the decision of government not to match the rise in inflation with an increase in the prices of land beyond \$1.25, many Americans in California could afford large tracts of land.²² According to historian Thomas Garden Barnes, Hastings had arrived in California with some means—a “grub steak”—to capitalize on opportunities available to those willing and able to invest.²³ As he had done in Iowa, he bought land in California.

Indeed, Hastings made excellent use of the claims systems offered by the state and federal governments. He purchased School Land Warrants. According to records held by the California State Archives, Hastings was originally able to acquire two warrants totaling three hundred twenty acres, half of the maximum six hundred forty acres allowed to an individual purchaser.²⁴ However, he eventually acquired a total of fifty warrants, which came in one hundred sixty-acre and three hundred twenty-acre denominations.²⁵ While individuals were limited to initially purchasing only a total of six hundred forty

¹⁹ Scholarly debate exists on the approximate levels of California Indian population. For an overview of some of the many positions, see: Albert L. Hurtado, “California Indian Demography, Sherburne F. Cook, and the Revision of American History,” *Pacific Historical Review* 58, no. 3 (August 1989): 323-343. See Appendix A for a table of population estimates.

²⁰ James J. Rawls and Walton Bean, *California: An Interpretive History* (New York: McGraw-Hill, 2003), 111. This is not to suggest the distribution of wealth was even, as some did much better than others, depending on one’s skill, luck, and location.

²¹ W. W. Robinson, *Land in California: The Story of Mission Lands, Ranchos, Squatters, Mining Claims, Railroad Grants, Land Scrip, Homesteads* (Berkeley: University of California Press, 1997), 185-190.

²² Robinson, *Land in California*, 167.

²³ Barnes, *Hastings College*, 26-27.

²⁴ S. C. Hastings, School Land Warrants, R388.03, Box 11-12, D2868, California State Archives, Office of the Secretary of State, Sacramento. Hastings initially purchased School Land Warrant nos. 51 and 53, both for 160 acres. See Appendix B for an example warrant—a copy of Hastings’s [School Land Warrant No. 51](#).

²⁵ Hastings, School Land Warrants. Box 11-12. Hastings acquired 48 other warrants, nos. 13, 14, 57, 79, 80, 89, 109, 110, 127, 128, 129, 130, 202, 205, 206, 229, 230, 231, 244, 245, 302, 303, 336, 337, 518, 528, 529, 531,

acres from the state, it was possible to acquire more by purchasing warrants from others. The system was supposed to prevent domination by speculators by limiting the acquisitions of individual purchasers during the initial public offering, but the example of Hastings shows that the system had a significant loophole. One could seek out other warrant holders and purchase from them. In all, Hastings acquired the rights to ten thousand seven hundred twenty acres in this manner; although, to be sure, this represented only a small part of his total landholdings.²⁶

Hastings also had enough cash to loan money, both as an individual and as part of banking partnerships, sometimes at rates as high as ten percent, compounded monthly.²⁷ When he arrived in California in 1849, he settled at Benicia.²⁸ Hastings was reunited with his former colleague in the U.S. House of Representatives, Thomas J. Henley, who had also emigrated to California in 1849.²⁹ They went into the banking business, running advertisements for loans and offering to buy gold dust from miners. Initially, the partnership was Henley, McKnight & Company, with S.C. Hastings of Iowa being listed below Thos. J. Henley of Indiana and O. McKnight of Ohio.³⁰ The partnership later became Henley, Hastings & Company, which survived into the mid-1850s before dissolving.³¹ Beginning in 1851, Hastings's financial position improved even more when the lands he had purchased in Iowa began to sell, bringing in additional funds to expend on real estate investments in California.³² That same year, he was able to bring his wife and children to California.³³ Hastings had started a new life with some success, something many gold rushers could not claim.

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HASTINGS AS CHIEF JUSTICE AND ATTORNEY GENERAL

Serranus Hastings did not limit his activities to entrepreneurship following his arrival in California. In 1849, he worked as trial court prosecutor for several months, and following the creation of the state constitution, appointed the first Chief Justice of Supreme Court of California. According to his contemporary, Oscar Shuck, although he was not a member of the convention, he nonetheless exercised significant influence—something later echoed by historian Thomas Gordon Barnes. Although compensated at a rate of \$10,000 per annum for his work on the court, state law prevented him from practicing law while a jurist. This limited his ability to make significant money in a financial and legal climate that rewarded experienced attorneys, especially those well versed in property law—as Hastings was.³⁴ While Hastings did not render many opinions as chief justice, he was particularly known for his attention to cases involving property disputes. Where land ownership was concerned, Hastings's experiences on the bench placed him in a good position later as a real estate speculator and investor. He well understood the mess that was California landholding.³⁵

This situation stemmed from the confused claims and titles dating from the Mexican era, as well as the complications of mineral deposits, un-surveyed public lands, and a lack of legal precedent in state courts

532, 533, 534, 540, 613, 650, 683, 684, 685, 686, 688, 689, 690, 692, 693, 694, 695, 696, 698, and 700. He made these purchases between 1854 and 1859. Hastings eventually selected and received title to all lands connected with these warrants by 1871.

²⁶ Barnes, *Hastings College*, 29. For example, Hastings owned a ranch in the Ukiah Valley that encompassed 35,552 acres.

²⁷ Barnes, *Hastings College*, 27.

²⁸ "Hastings," Biographical Directory.

²⁹ "Henley," Biographical Directory.

³⁰ See, for example: *Sacramento Transcript*, July 12, 1850.

³¹ See, for example: *Sacramento Transcript*, February 11, 1851.

³² Barnes, *Hastings College*, 28.

³³ Barnes, *Hastings College*, 28.

³⁴ Barnes, *Hastings College*, 14, 27; Shuck, *Bench and Bar*, 243.

³⁵ Barnes, *Hastings College*, 24, 28, 30-39.

in cases of land disputes. Whether one was making a legitimate claim on land to farm, graze, or log, or surreptitiously using land for the same purposes as a squatter, California Indians entered the picture in unavoidable ways. Under Spanish and then Mexican control, few non-Indigenous peoples lived in what would become the one hundred million acres of the thirty-first state admitted to the Union. When Mexico achieved independence, perhaps only three thousand four hundred non-Indians lived in California. By the 1846 outbreak of the Mexican War that culminated in the loss of California by Mexico to the United States, somewhere between seven thousand five hundred and ten thousand non-Indians lived in California. Even though Mexico issued approximately eight hundred land grants in Alta California before the end of Mexican rule, less than twenty percent of the available land rested in the control of non-Indians; and given that the Mexicans typically let many Indian people live undisturbed within their grants, to say that they had complete control of even these lands would be an exaggeration.³⁶ For Americans, this would not do. Court cases related to property title abounded, particularly after passage of the California Land Act in 1851, which sought to settle the legitimacy of Mexican-era land titles and open public lands for settlement.³⁷ Americans settlers and former Mexican citizens, alike, would need legal assistance to bring this about.

According to his biographer and friend, Oscar Shuck, this led Hastings to seek public office in 1851. Off the bench, he could legitimately practice law while holding other types of public office. Yet as one looks at Hastings's run for the attorney generalship of California on the 1851 Democratic Party ticket, it becomes clear that he was already heavily investing in real estate. Indeed, harsh criticism came from the Whig Party based on his and other Democrat's involvement in monopolizing land ownership in California. Scathing articles in Sacramento's Whig-friendly *Daily Union* provide examples of the contempt directed toward Hastings and other Democrats by Whigs and those who objected to land speculation. In one piece, appearing in August of 1851, the *Daily Union* noted, "Judge Hastings, whose name appears on the Democratic State ticket for Attorney General, can be found with his name on title records of Yuba County in connection with the most vigorous and masterly grasp of land speculation." The article went on to damn Hastings and other major Democratic politicians as nothing more than a cabal of land-hungry speculators achieving their ends by use of their political influence and offices.³⁸ Whether the implications of the article were true or not, it is clear from the historical record that Hastings was already amassing sizeable real estate holdings, perhaps in excess of what one might expect of a modest fortune brought so recently brought overland to California. And it is also clear that there was some public perception—misguided or not—that Hastings and his Democratic political allies were using their influence to amass land monopolies.

According to another piece appearing the following month in the *Daily Union*, the Democratic ticket, indeed, was a "Speculator's Ticket . . . moving all the powers of men, money and scandal to obtain official position..."³⁹ Other critics echoed similar themes. One disgruntled critic of Hastings and his fellows dubbed them "Plundercrats," and delivered invectives against them and their land monopolies in newspapers and pamphlets.⁴⁰ Despite such attacks against him and his fellow Democrats, the ticket swept

³⁶ David Hornbeck, "Land Tenure and Rancho Expansion in Alta California, 1784-1846," *Journal of Historical Geography* 4, no. 4 (1978): 373, 388. Based on the grants submitted to the U.S. land commissioners, perhaps eight hundred nine grants existed under Mexican rule. For more on land grants and associated litigation, see also: Crisostomo N. Perez, *Land Grants in Alta California* (Rancho Cordova, California: Landmark Enterprises, 1996).

³⁷ For a copy of the California Land Act of 1851, see: "An Act to ascertain and settle the private Land Claims in the state of California," Ch. 41, 03 March 1851, Statutes at Large, 31st Congress, Second Session, Library of Congress, accessed January 7, 2018, <https://www.loc.gov/law/help/statutes-at-large/31st-congress/session-2/c31s2ch41.pdf>.

³⁸ *Sacramento Daily Union*, August 29, 1851. Newspaper's *emphasis*. For a full transcription of the article, see [Appendix F: Newspapers Transcribed](#).

³⁹ *Sacramento Daily Union* September 1, 1851. Additional articles appeared in the *Union* with similar charges; see, for example: *Sacramento Daily Union*, August 21, 1851; August 26, 1851; and September 3, 1851.

⁴⁰ Barnes, *Hastings College*, 21-25. There is no clear evidence that the lands or the funds used to purchase them were ill-gotten, yet clearly some believed Hastings and others in public office were using their influence to obtain

the election. Hastings won the office of Attorney General of the State of California—the third in the state’s young history. His friend and business partner, Thomas J. Henley, won a seat in the California State Assembly.⁴¹

As attorney general, Hastings seems to have attempted to use his political connections—but not the powers of his office—to influence policies related to real estate speculation, perhaps giving some validity to the arguments of his Whig critics. According to historian Thomas Garden Barnes, Hastings wrote to Governor John Bigler attempting to get him to support a change to the School Land Warrant system’s limit on initial warrant purchases. He argued that the system was inconsistent: why place any initial purchase limits on a system in which the warrants were transferrable?⁴² Of course, Bigler was a member of the alleged “Speculator’s Ticket,” too. While this may seem a reasonable question and suggestion on Hastings’s part, the answer is equally reasonable: the system made it so one had to purchase warrants from other investors should they want more than the allotted six hundred forty acres. The warrant would have to be sold again by the initial purchaser, driving up the cost from the original \$2 an acre, in hopes of preventing speculation and land monopolies. The act remained unchanged. Nonetheless, Hastings continued to seriously invest in real estate. By the mid-1850s, he owned approximately one hundred town lots in San Francisco and property in at least five different counties. By 1862, Hastings’s fortune stood at \$900,000—adjusted for inflation, in 2021 dollars, the equivalent of about \$24 million.⁴³

When Hastings’s two-year term expired, he did not seek reelection. Instead he focused on private legal practice and his entrepreneurial pursuits. According to Shuck, his private practice during his time as attorney general had been extremely lucrative, stating, “[The] nucleus of Judge Hastings’s colossal fortune ... [came by way of] law fees while Attorney General.”⁴⁴ He rolled much of this wealth into real estate. Hastings developed a strategy to avoid the pitfalls of property claims in California, likely linked to his experiences on the bench and as an attorney. For Hastings, possession and use was key in achieving title. In Lockean terms, property held but unexploited was wasteful and claims to its ownership, weak, if not undeserved.⁴⁵ Hastings made sure all his property was engaged in economic activity; it never sat idle. Town lots held boarding houses. He used rural tracts for farming, vineyards, logging, and cattle and horse ranching.⁴⁶ Such was the aim of Hastings in 1859 when he acquired all of Eden Valley on the advice and with the assistance of his business partner, Thomas J. Henley, who was by this time in a federal patronage post as federal Superintendent of Indian Affairs for California. Henley made his home just to the north of Eden Valley, in Round Valley, the site of an Indian reservation. According to testimony by Hastings in a deposition, violence stemming from a history of strained Indian-white relations plagued Eden and Round Valleys. Nonetheless, he went forward with the venture in Eden Valley, testifying, “I [believed] that I could by feeding one or two tribes subdue them and make them useful and have no difficulty with them.”⁴⁷ Clearly, he not only intended to take their land, but also use them as slave labor. These valleys were the home of the Yuki, and had been for thousands of years. Using his School Land Warrants, Hastings acquired

title to real estate in California. Meanwhile, the critic in question was, according to Thomas Barnes, on the wrong end of court decisions over his own landholdings, and bore a grudge against Hastings, who was involved in the decision.

⁴¹ Shuck, *Bench and Bar*, 243. Whig opposition while spirited, was weak. The Whig Party by the late 1840s and early 1850s was showing signs of instability based upon internal disagreements related to the war with Mexico and other sectional political issues. Later, passage of the Kansas-Nebraska Act essentially destroyed the Whig Party, with its members taking refuge mainly in a new political party in 1854, the Republican Party (GOP).

⁴² Barnes, *Hastings College*, 30-31. Historian Thomas Garden Barnes interprets this as reform mindedness on Hastings’s part. This author would argue that in conjunction with his warrant purchases—which Barnes may not have known about—it suggests self-interest rather than public interest.

⁴³ Shuck, *Bench and Bar*, 243-244.

⁴⁴ Shuck, *Bench and Bar*, 243.

⁴⁵ Barnes, *Hastings College*, 35-39.

⁴⁶ Shuck, *Bench and Bar*, 244.

⁴⁷ [Deposition of S. C. Hastings](#), 13 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 484, California State Archives, Sacramento, Indian War Papers.

one thousand seventy-two acres in Eden Valley, which amounted to the entire space. He also acquired difficulties dating back many years, troubles caused by other white men, to be sure, but soon exacerbated by him.

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THE YUKI OF EDEN AND ROUND VALLEYS

In the spring of 1854, six white men rode into a valley looking for gold deposits in the rivers, creeks, and streams of the region. The natural beauty of the valley so impressed two of the party's number, the brothers Frank and Pierce Asbill, they dubbed it Eden Valley. Finding no gold, they continued onward into another lush valley, situated just to the north, which they called Round Valley. Not long after arriving, a group of California Indians—Yuki people, it would later be established—stopped them and attempted to communicate with the party through gestures, in a manner described as hostile by the white men.⁴⁸ “Fearing for their lives,” the white men killed forty Yukis, without suffering any losses to their number.⁴⁹ From the spring of 1854 forward, for decades to come, this cycle of trespass and violence would be commonplace in Eden and Round Valleys; indeed, throughout California. For the Yuki and neighboring Native American populations, this cycle was devastating—even genocidal, as some have argued.⁵⁰

Although the Asbills and their fellows did not know it, they were riding through the heart of Yuki territory. The Yuki lived in numerous small villages scattered in and around Round and Eden Valleys, as well as numerous other small valleys. Six Yuki dialects existed, dividing the Yuki into distinct communities based on language, each composed of multiple villages.⁵¹ Geographic barriers reinforced these distinctions.⁵² The Eel River and Black Butte River were the main water sources for the Yuki. Many tributaries emanating from the foothills and mountains of the region fed these rivers, crisscrossing the region, carving out valleys.

Adjacent to the Yuki, often separated by watercourses, valleys, foothills, and mountains, lived other Native Americans: the Nomlacki, Lassik, Wailaki, Cahto, Pomo, Wintun, and Concow.⁵³ The Yuki were well known to their neighbors for several reasons. One, they were uncommonly warlike as compared to most Native groups in the region, and California in general. And, two, the Yuki traded with neighboring groups, including a trade in bows and arrows for shells with Coast Yuki people and animal skins, beads, and baskets for salt with the Pomo.⁵⁴ The Native Americans of this region were nonagricultural; they fished, hunted, and gathered. Yuki fishing—mainly for salmon—and hunting—especially for deer—combined with seasonal gathering of acorns, fruits, and other vegetation sustained their population.⁵⁵ This is worth

⁴⁸ Rena Lynn, *The Story of the Stolen Valley* (Willits, CA: L&S Publishing, 1977), 1.

⁴⁹ Unidentified member of the party, quoted in Lynn, *Stolen Valley*, 1.

⁵⁰ For scholarly works arguing a genocide took place in and around Eden and Round Valleys, see, for examples: Jack Norton, *Genocide in Northwestern California: When Our Worlds Cried* (San Francisco: Indian Historian Press, 1979); Brendan Lindsay, *Murder State: California's Native American Genocide, 1846-1873* (Lincoln: University of Nebraska Press, 2012); and Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe, 1846-1873* (New Haven: Yale University Press, 2016).

⁵¹ William J. Bauer, *'We Were All Migrant Workers Here': Work, Community, and Memory on California's Round Valley Reservation, 1850-1941* (Chapel Hill: University of North Carolina Press, 2009), 24. The six groups are the Sukaltatamno'm, Ta'no'm, Witukomno'm, Huititno'm, Onkolukomno'm, and Ukomno'm.

⁵² George M. Foster, “A Summary of Yuki Culture,” *Anthropological Records* 5, no. 3 (1944): 154.

⁵³ Bauer, *'We Were All,'* 4, 24. I have employed the spelling used in the most recent scholarship pertaining to these California Indian peoples; but in many earlier primary and secondary sources, one will find different spellings (e.g., Kato instead of Cahto; Nomlacki instead of Nomlaki).

⁵⁴ Miller, “The Yuki,” iv, 11-13. Members of Yuki communities also sometimes intermarried with members of other, neighboring groups.

⁵⁵ Foster, “Summary of Yuki Culture,” 161-167; Bauer, *'We Were All,'* 4, 24. Readers should note that the subsistence practices of California Indian peoples varied widely.

noting because of the role invasion by American settlers, miners, loggers, and ranchers played in creating starvation among Indigenous populations through disruption or outright destruction of these food supplies as they drove out native species in favor of domesticated animals, farming, and other pursuits.⁵⁶

The Yuki inhabited the areas in and around Eden Valley, Round Valley, and Long Valley, three valleys cut by the diverging courses of the Eel River and its tributaries in what became Mendocino County in 1850. The Yuki like other California Indian peoples had their own distinct language, traditions, and subsistence practices.⁵⁷ The Yuki were not one people politically, but rather many autonomous communities, each possessed of its own leadership. Yuki villages traded, intermarried, and sometimes fought with other Yuki and other Native communities. Relationships in the region were far from simple, even in the absence of American invaders.⁵⁸ When white settlers and ranchers came, however, all of the Indigenous peoples of the region were subjected to the violence of massacre, rape, and kidnap, regardless of tribal membership.

As Americans flooded into and out of the gold fields in the 1850s, they harnessed democracy to achieve a new dream of wealth in California based on land ownership. Using the laws and their rights as citizens, they rapidly and bloodily transitioned California's land base from one controlled mostly by Native Americans into one controlled almost completely by white American settlers. Violent conflict over land was central to beginning this transfer. Americans placed themselves near Native Americans, preventing them from gathering food, trading, and living in traditional ways. As conflicts evolved, Americans turned to traditional ways dispossessing Indians. The process involved the clever manipulation of democracy and its various institutions—local and county governments, the press, the state legislature, executive, and judiciary. Oftentimes, as failed miners and recent emigrants to California themselves, men working in these institutions found it easy to identify with these men and their motives. In most cases, the state and federal governments were at least willing to turn a blind eye, if not send help, during campaigns for the extermination of Indians. Yet, above all else in the 1850s and 1860s, settlers, ranchers, and miners, used voluntary, democratic associations to greatest effect in bringing about the destruction of California Indians.

Serranus Hastings offers an example of how white citizens operated within state and federal land acquisition laws to obtain and exploit Native American lands. Hastings had obtained School Land Warrants, deciding to use some of these in Eden Valley. Hastings purchased all of the Eden Valley, though he never lived there.⁵⁹ Instead, his purchase was the beginning of a stock raising venture. He sent hundreds of horses and cattle into the valley under the care of H. L. Hall, who Hastings and a partner promised one-third of the valley in exchange for his stewardship of the stock and the property.⁶⁰ However, Hall would have no easy time getting his payment. The valley was home to several hundred Yuki.

⁵⁶ These subsistence practices possessed significant cultural connotations, too. Sacred and spiritual practices and belief systems informed subsistence practices. Rituals to prepare for hunting and gathering, fishing, food preparation, and the like were cultural cornerstones. Other rituals focused on the giving of thanks for successes in these endeavors. Moreover, eating was not the only aspect of Native life affected by non-Native intrusion and destruction of food sources. The byproducts of processing these foods provided raw materials for making clothing, shelter, tools, and other articles of material culture. Thus, the deleterious effects of the destruction of food supplies goes well beyond hunger and malnutrition.

⁵⁷ It is worth noting that the name Yuki is not what they call themselves. Yuki is a Wintun word meaning both a stranger and a thief or bad person. The Yuki name for themselves is *Ukomno 'm*. Virginia P. Miller, *Ukomno 'm: The Yuki Indians of Northern California* (Socorro, New Mexico: Ballena Press, 1979). This has frequently been the case. Invaders learned the names of Native groups from neighboring Indigenous groups, who were often enemies or competitors, and had names for them reflecting this (e.g., the Wyandot called Huron; the Diné called Navajo).

⁵⁸ Robert F. Heizer and M. A. Whipple, eds., *The California Indians: A Source Book*, Second Edition (Berkeley: University of California Press, 1971), 25, 35, 49, 367-368, 459.

⁵⁹ Eden Valley, in the estimation of Hall, was about thirty square miles of land.

⁶⁰ Lynwood Carranco and Estle Beard, *Genocide and Vendetta: The Round Valley Wars of Northern California* (Norman: University of Oklahoma Press, 1981), 84; [Deposition of H. L. Hall](#), 02 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 449, California State Archives, Sacramento, Indian War Papers.

Hastings and other settlers and ranchers began to graze stock and settle in the area in the mid to late 1850s. These intruders put a strain upon the Yuki, as such incursions did for Indigenous communities all over the state. As whites pushed deeper into these valleys, they attempted to push Indians out. Over time, the strain placed on Native peoples living in proximity to Americans reached breaking points, forcing relatively peaceful California Indian groups into the necessity of actively, sometimes violently resisting to survive. This gave Americans the confirmation that the “savage” Indians of their childhood fears were the same as the Indians of their adult reality. As would be repeated hundreds of times all over California, the presence of Americans and their domestic herds spelled disaster for Indigenous peoples. Oxen, horses, mules, cattle, sheep, pigs, and hogs brought by settlers and ranchers into the lands California Indians depended upon for food, shelter, and fuel, annihilated food supplies and resources. Domesticated stock drove off native species, and consumed plants, roots, seeds, nuts, and berries. American industry, especially logging, also took a toll. Sawdust discharged into rivers killed fish and deprived Native Americans of a traditional, reliable food source.⁶¹ Mining waste did much the same thing. Other American activities created problems as well.

Hunting created tremendous difficulties for Native people attempting to access game as a traditional food supply. The Asbill Brothers and Jim Neafus, for example, hunted and killed hundreds of deer in Eden Valley over the course of a year, not for meat but for hides.⁶² Recreational hunting also took a toll. In one example of thoughtless excess, three men hunting for recreation in nearby Tehama County shot one hundred forty-eight quail between them.⁶³ To make matters worse, the American sportsmen happened to do this during the vital time of the year when Indigenous peoples in this region attempted to collect winter stores.

Native Americans had to find new means of subsistence and survival. Evidence exists that Americans were aware of this leverage gained over them by starvation, especially in areas where Indian labor could prove extremely valuable to settlers and ranchers. Pierson B. Reading believed that the destitute state of the Indians living on land recently granted to him was a “very good advantage.” He felt that they could work like “negroes in the South.” And given that there were some three hundred men, women, and children on his land, he felt he could “convert them into useful subjects” and do quite well for himself on his forty-five square mile ranch.⁶⁴ Hastings made statements bearing on this, as well. He believed that by subduing the Indians of Eden Valley, then feeding them, he could gain a workforce—in other words, an uncompensated, enslaved workforce.⁶⁵ Yet, over time, his and others’ views changed on feeding starving Indians. As Native populations attempted to get nourishment by eating the American livestock destroying their lives, vengeful ranchers, including Hastings through his stock managers and activities in petitioning for volunteer companies, exacted payback for lost cows or horses through murder.⁶⁶

This cycle of starvation of Native Americans, their stock theft for food, and the bloody, retaliatory vengeance by stockholders, exacted with self-righteous fury, was the key sequence of events leading to the American claim that extermination of Indians was a practical necessity. And the cycle only worsened over time and with the passage of the seasons. Native Americans living at higher elevations or areas hit with heavy winter snows needed to prepare for winter, long before winter arrived. With settlers filling the valleys and lowlands where game and edible plants flourished, spring through fall, it was difficult enough to survive on a day-to-day basis, let alone prepare for winter. Soon Native Americans began to attack settlers in addition to taking their stock. Native Americans in Tehama County, in fact, first chased off American

⁶¹ *Mount Shasta Herald*, November 20, 1888.

⁶² Lynn, *Stolen Valley*, 3-4; Carranco and Beard, *Genocide and Vendetta*, 171-173.

⁶³ *Red Bluff Beacon*, October 30, 1862.

⁶⁴ Pierson B. Reading to His Brother, 07 February 1844, 72/66c, Bancroft Library, University of California, Berkeley.

⁶⁵ Deposition of S. C. Hastings.

⁶⁶ Robert F. Heizer and Alan J. Almquist, *The Other Californians: Prejudice and Discrimination under Spain, Mexico, and the United States to 1920* (Berkeley: University of California Press, 1971), 27.

hunters in the late 1850s, but by the early 1860s sometimes killed them.⁶⁷ The level of violence on the American side escalated in retaliation. Anthropologist Robert Heizer judged that “for every white man killed, a hundred Indians paid the penalty with their lives.”⁶⁸ In the case of the valleys in and around Mendocino County, one can use the experience of Native Americans and their American competitors for land and resources as foundational examples for understanding the resultant cycles of violence, cycles that Serranus Hastings contributed to by his local organizing efforts and influence.

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HASTINGS, HENLEY, AND THE EEL RIVER RANGERS

H. L. Hall took up stewardship of Eden Valley on behalf of Serranus Hastings and his business partner, Thomas J. Henley, the Superintendent of Indian Affairs for California, in 1858. In addition to his stock management duties, Hall farmed a portion of Eden Valley that Hastings promised him as compensation. When Hall moved into Eden Valley in August of 1858, no other white settlers lived there.⁶⁹ Hall also claimed no Indians lived there when he arrived.⁷⁰ In the heat of the summer, perhaps no Yuki were down on the floor of the valley, and instead resided along the banks of the rivers or lived in the coolness of the surrounding higher elevations. But the Yuki did live there.

During August and September, Hall drove nearly four hundred horses into Eden Valley. The herd belonged to Hastings and Henley. In the next two months, Hall discovered that Indians did live in the valley, later recalling that more than one hundred Indians came down and camped near where he was living. Calling them “my Indians” because they were on his land, and noting that he believed them peaceful peoples, his life remained undisturbed until December 1858, when “my Indians told me that one mare had been killed and before I went out after them they reported three or five [more] killed.”⁷¹ Hall knew why.

Just prior to the incident, Hall had contracted several Yuki men to carry fifty-pound parcels for him from Eden Valley to Ukiah—a roundtrip of about 80 miles—in exchange for cloth shirts. Once the men returned, Hall had no shirts for them. Two of the Yuki workers became agitated, and Hall lost his temper, whipping them off his property. He never paid any of the men the shirts he owed. About a month later, the Yuki began killing horses—likely in reprisal.⁷² Hall reacted quickly and decisively.

Seeking the help of three Americans living in nearby Round Valley, Hall attacked a village without warning or investigation of their involvement in the stock losses. Even though they ran as Hall and his comrades approached, he and his men still killed half of the twenty Indians living there. After the main episode of killing, the men entered the village to see if these were the responsible parties. They found another “buck” and executed him after setting fire to his hiding place, forcing him to come out and be shot to death, instead of immolated.⁷³ They found some horse meat and went away, apparently satisfied that killing ten Indians compensated them for the lives of some horses. Americans often identified likely culprits, without any knowledge of guilt or innocence. Yet Hall and his fellows really had no way of knowing.

⁶⁷ For some examples, see: *Red Bluff Beacon*, October 28, 1857, December 23, 1857, and July 4, 1861.

⁶⁸ Heizer and Almquist, *Other Californians*, 27.

⁶⁹ Carranco and Beard, *Genocide and Vendetta*, 72-73. A settler, Henry Brizantine, had lived in the valley previously, but sold his claim for \$400.

⁷⁰ Deposition of H. L. Hall.

⁷¹ Deposition of H. L. Hall.

⁷² Carranco and Beard, *Genocide and Vendetta*, 60; [Deposition of William T. Scott](#), 02 March 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 471, California State Archives, Sacramento, Indian War Papers. Hall told Scott about the incident, but apparently never told Hastings. Some sources say it was thirteen Yuki packers, others eighteen.

⁷³ William B. Secrest, *When the Great Sprit Died: The Destruction of the California Indians, 1850-1860* (Sanger, CA: Word Dancer Press, 2003), 289.

Hall and his employers continued to put pressure on the Yuki as winter deepened in the valley. Just days after his punitive expedition, Hastings sent up two hundred thirty head of cattle to add to the already-present horses.⁷⁴ Now more than six hundred animals alien to this part of California roamed the valley, unfenced and unwatched daily, while hundreds of Yuki and indigenous animals in the depths of winter had to accept their presence, remove to another location, or find a way to coexist. Leaving animals unfenced and free to roam was commonplace in California at this time. To have fenced the land of such huge claims was impossible in this pre-barbed wire era. Animals roamed free. Settlers and ranchers viewed those not rounded up or otherwise found as having fallen prey to thieving Indians, which had been much the same conclusion drawn by Americans with stray stock on the overland trails; if it was missing, it was because of Indians.⁷⁵ To ignore even the possibility that Indians were involved was too much for Hall, or likely any other American rancher. Nothing would be worse than Indians raiding stock unchecked and unpunished given the attitudes of the era. Within days of Hall taking this latest delivery of stock, the major commanding the local detachment of federal troops paid Hall a visit. Major Johnson and his command remained in the valley for a week either to check the situation out or as part of a routine patrol. The troops departed after a week, learning the Yuki in Round Valley had killed an American named McDonald. With the departure of the American troops and news of the death reaching Hall in quick succession, Hall grew afraid. McDonald's killing occurred in Round Valley, situated several miles north of Eden Valley.⁷⁶ Since Hall was no stranger to the region, he might have known that McDonald was guilty of at least one serious offense against the Yuki of Round Valley.

In 1855, McDonald had kidnapped a Yuki woman and two children, intending to sell them; they managed to escape back to their people.⁷⁷ The practice of kidnapping women and children was a common one throughout California, and typically practiced with much more success than McDonald. According to Indian Agent Simmon P. Storms, who managed the Nome Cult Indian Farm in Round Valley, white settlers often enslaved Indian women and children. By the late 1850s, matters were much worse, especially in areas that contained Indian reservations. Americans used the reservations as markets to pick up Indian women and children, including Nome Cult Indian Farm, which housed many Yuki taken there against their will or convinced to relocate there for protection from white settlers.⁷⁸ The relocations only made it easier for Americans to kidnap Indian women and children. Conditions were worse in mining areas, where Americans vastly outnumbered Indian peoples. Miners kidnapped Indian women and children, and drove away or killed Indian men as they appropriated everything within reach by weight of numbers. What they did not take, they burned to keep Indians from coming back.⁷⁹ This was the tradition that McDonald was carrying on when he attempted to kidnap the Yuki woman and children. Despite this failed attempt, McDonald continued to live in the area, and may have committed additional crimes against the Yuki.

In 1859, the Yuki killed McDonald. American citizens interpreted the Yuki action as savagery, not self-defense or justice. Similar circumstances surrounded the first deaths of whites at Indian hands documented in Round Valley. William Mantle and John McDaniel, killed in 1857 and 1858, respectively, were both infamous for depredations committed against local Indian peoples. McDaniel, for instance, was known for his recreational shooting of Indians, who he endeavored to kill with a rifle at ever-increasing distances as a challenge to himself.⁸⁰ Both Mantle and McDaniel kept what Americans called "pet Indians" in their homes. One of the Indians that McDaniel enslaved reportedly killed him with his own gun.⁸¹ Local

⁷⁴ Deposition of H. L. Hall.

⁷⁵ For more of American views and experiences of Indians on overland trails, see: Michael L. Tate, *Indians and Emigrants: Encounters on the Overland Trails* (Norman: University of Oklahoma Press, 2006).

⁷⁶ *Lassen Sage Brush*, May 2, 1868.

⁷⁷ Secrest, *Great Spirit Died*, 259.

⁷⁸ Carranco and Beard, *Genocide and Vendetta*, 61.

⁷⁹ Carranco and Beard, *Genocide and Vendetta*, 48.

⁸⁰ William B. Secrest, "Jarboe's War," *Californians* 6, no. 6 (November/December 1988): 17.

⁸¹ Elijah Renshaw Potter, "Reminiscences of the Early History of Northern California," C-D 5136:2, California State Library, Sacramento.

army officers reported the deaths of both men to their superiors as Indian retribution for their crimes.⁸² Even though Mantle and McDaniel were known as unsavory characters, their neighbors still avenged their deaths. After Mantle's killing, according to Isaac Shannon, Americans went out and killed fourteen Yuki in retaliation.⁸³ Based on Hall's reaction to McDonald's killing, and his likely knowledge of the cases of McDaniel and Mantle, he may have seen a similar demise in his future.

Not surprisingly, given his own crimes against the Yuki, Hall immediately sent word to Hastings, asking for protection. By this time, Hall was managing some sixteen hundred to seventeen hundred head of livestock in Eden Valley for Hastings and Henley, which Hastings valued at \$32,000.⁸⁴ Hastings responded with his own communiques. He informed the press, wrote to his friend, Governor John B. Weller, and contacted the commander of the federal forces in California. The first sign of a response came in January of 1859, when the *Daily Alta California* published a report based on information given them by Hastings. According to the *Alta*, Indian stock raiding had produced retaliatory attacks that had killed fourteen "bucks" on December 31, 1858, and "more than one hundred Indians had been killed by whites within three to four months."⁸⁵ This was allegedly in retaliation for the killing of much stock in Eden and Round Valleys. The *Alta* continued to report on the killing of Indian people, including a January 20, 1859, article describing the massacre of some one hundred seventy Indians in a six-week period.⁸⁶ Of course, there was never any mention of Hall's actions, because at that time neither Hastings nor any non-Native beyond Hall likely knew of the incident with the uncompensated and abused packers. Meanwhile, the federal government's response was slow in reaching Eden Valley, and the state would take even longer.

After two months of waiting, Major Edward Johnson and his troops returned to Eden Valley for a second visit. But finding no trouble brewing, Major Johnson departed.⁸⁷ As February 1859 closed, Hall discovered more dead stock. This was another moment that required Hall to take quick action. He rode to Round Valley to see the company commander of the federal forces stationed there, Lieutenant Edward Dillon. His request for the troops fell on unsympathetic ears. Dillon believed that settlers were the source of the trouble, telling Hall that for all he cared the Indians could "kill all the stock in Eden and Round Valleys."⁸⁸ In fact, Dillon warned Hall to leave off killing Indians.⁸⁹ This was unlikely. Hall hated Indians, his current troubles with them aside. Hall once told one of his neighbors, William T. Scott, that where Indians were concerned, he would "kill all he could find because a knut would make a louse." Such was Hall's standard for choosing members of his raiding parties; only likeminded men were acceptable.⁹⁰ Dillon was aware of such attitudes towards Indians and the subsequent atrocities committed against them. Dillon soon learned Hall ignored his warnings: Dillon informed his superiors that Hall's two-week vigilante expedition killed approximately two hundred forty Indians.⁹¹ Indeed, according to historians Lynwood Carranco and Estle Beard, Hall "probably led more raiding parties and killed more Indians than anyone else in the area."⁹² Murders were not the only crimes committed against Native peoples. Dillon later wrote that in just a few months' time, Americans kidnapped as many as fifty Native children and sold them into slavery. Although he had no authority to make war or exact justice on American citizens, Dillon did have

⁸² Secrest, "Jarboe's War," 17.

⁸³ [Deposition of Isaac W. Shannon](#), 28 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 467, California State Archives, Sacramento, Indian War Papers.

⁸⁴ Carranco and Beard, *Genocide and Vendetta*, 84; Deposition of S. C. Hastings.

⁸⁵ *Daily Alta California*, January 11, 1859.

⁸⁶ *Daily Alta California*, January 20, 1859.

⁸⁷ Deposition of H. L. Hall.

⁸⁸ Deposition of H. L. Hall.

⁸⁹ [First Deposition of Lieutenant Edward Dillon](#), undated [ca. 1860], Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 357, California State Archives, Sacramento, Indian War Papers.

⁹⁰ Deposition of William T. Scott.

⁹¹ Secrest, "Jarboe's War," 18.

⁹² Carranco and Beard, *Genocide and Vendetta*, 109.

the ability to avoid helping them in their depredations.⁹³ Hall, like other settlers in the region, grew to hate Dillon, as he regularly refused to exterminate Indians, and indeed spent most of his time interfering with the settlers' attempts to kidnap or kill Indians.

Other than his private foray of the year before, Hall claimed in 1859 that he had not joined in any of the expeditions against Indians launched in the region. But based on the intelligence received by Lieutenant Dillon, this seems doubtful. The death of some additional stock, coupled with Lieutenant Dillon's refusal to help him, changed Hall's mind about participating in a volunteer company. Instead of returning to Eden Valley, Hall visited local men and told them his story. The next day Hall and five men rode back into Eden Valley to kill the Indians who had killed the stock. Following a trail used by Indians, they discovered a village of some thirty Yuki people. The six Americans attacked, managing to kill eight Yuki men. Following the slaughter, they found no trace of horse meat or any evidence that the villagers had killed livestock.⁹⁴ Undeterred by their killing of innocent people, Hall's party continued. Finding another Yuki village, they entered the village to find no evidence of involvement and only "one sick buck" there to meet them. Hall threatened the sick man's people with death before leaving, warning him that extermination would follow, if they took stock from whites in the valley.⁹⁵ The party pressed on.

The group located another village, this one with fresh-killed livestock. However, all the men were away, and only women and children were present. Hall and his men took them prisoner. Later, testifying before a state investigative committee, investigators asked Hall if they harmed the women or children. After first attempting to evade the question—admitting knowledge of only one "squaw," mysteriously shot—his resolve to hide the truth gave out, as he recalled what had happened on the road home: "I think all the squaws were killed because they refused to go further. We took one boy into the valley and *the infants were put out of their misery* and a *girl 10 years of age was killed for stubbornness*."⁹⁶ Hall and his men had killed defenseless women and children, including infants, because they were scared, crying, or hesitant to return to the homes of these men, where they might be raped, enslaved, or both. What Hall ignored was the source of this "misery" was the presence of Hastings's herds.

Hall's party killed numerous men, women, and children on this expedition. Why Hall had even hesitated to admit this immediately is unclear, as the justice system in California never punished white men for crimes against Indians, with the possible exception of selling liquor or firearms to them. Meanwhile, Hall and his group had in their possession another child, the only Indian boy seized in the raid. Bringing him back to Eden Valley, Hall planned on making him work for him. This, too, was perfectly legal under California law. But after only a few weeks the Indians "stole the boy" back.⁹⁷ Hall obviously considered the boy a piece of his property now; and when "stolen," he saw it as only another theft of an animal or piece of property. But this would become the least of Hall's troubles. According to a hired hand working for Hall, even as Hall, his men, and their single prisoner had been returning home, the Yuki were now driving off large herds of animals belonging to Hastings and Henley. The strategy of the Yuki seemed to be that if no animals remained, the Americans would have no reason to stay. At the same time, settlers in the region blamed all stock losses on the Yuki.

⁹³ Carranco and Beard, *Genocide and Vendetta*, 109.

⁹⁴ Deposition of H. L. Hall.

⁹⁵ Deposition of H. L. Hall.

⁹⁶ Deposition of H. L. Hall. *Emphasis mine*. The term "squaw" was and is a terrible, dehumanizing, misogynistic, racial slur against Native women. It appears in this work as part of evidence drawn from a historical record reflective of the pejorative ways it was employed against Native peoples and cultures. I beg the pardon of anyone offended, but I felt the full context of the events of the 1850s and 1860s should reflect, as accurately and transparently as possible, the rampant racism and sexism of this era, and how such bigotries informed the actions of non-Native populations committing atrocities against Indigenous peoples. Unfortunately, this term, along with other slurs against Native Americans, remains in use today; indeed, efforts to do away with it sometimes attracts controversy and resistance.

⁹⁷ Deposition of H. L. Hall.

Stock was typically unattended as it grazed in the valleys and foothills of California. Many times, ranchers had a difficult time locating stock. American farmers and ranchers living near Native populations almost always assumed that missing animals stolen by Indians, not lost, despite the evidence that abounded in local papers of the numerous ways an animal might go astray or die by forces other than Indians. Plant life, unfamiliar to new emigrants and poisonous to cattle and horses grew in the valleys of central and northern California. One “noxious weed” killed two oxen in 1857 between Red Bluff and Fort Crook. Luckily, their owner saw them consume this strange plant; otherwise they might have been considered killed by Indians.⁹⁸ Even greater numbers of cattle were confirmed dead in Humboldt County, north of San Francisco on the Pacific Coast.⁹⁹ Emigrants coming into California were learning a similarly harsh lesson on the eastern borders of the state, as cattle consumed a plant that could kill them in only thirty minutes time.¹⁰⁰ Outbreaks of disease also claimed the lives of horses and cattle.¹⁰¹ In cases where owners observed the onset and terminal conclusion of the affliction, Indians were safe. But animals dying away from their owners’ locations might easily have joined the statistics on losses attributed to Indian raids. Weather was also an important contributor to livestock mortality. Newspapers often reported flooding, heavy snows, and other natural phenomena as claiming the lives of animals. In one case, lightning struck four horses corralled during a summer storm, killing them all.¹⁰² Again, if the horses had been loose, there would be little chance that an owner could know that lightening, not Indians, was to blame. Winter storms also claimed the lives of animals, attended or not. What one might characterize as manmade disasters were even more prevalent in claiming the lives of cattle and horses, and giving local Americans the opportunity to place unqualified blame on Native Americans.

Non-Indian cattle rustlers and horse thieves abounded in California. Newspapers often mentioned American horse thieves when caught or spotted in the act, but when thefts went unwitnessed, newspapers did not conjecture that Americans had committed such crimes.¹⁰³ Rather, they typically attributed the crimes to Mexicans or Indians. Blaming Indians seemed the natural conclusion for an American to make in the mid-nineteenth century. Indeed, at least one case confirms this relationship. The *Butte Democrat* reported: “We are informed that Mr. Owens, of Round Valley, a few nights ago shot at and wounded a Spaniard, who had been caught stealing horses. Mr. Owens first endeavored to arrest him, but owing to the darkness, could not, until he had brought him up with a bullet. They recovered four of the stolen animals. *His arrest has possibly saved some Indian’s life.*”¹⁰⁴ As was the case with animals that strayed, died of natural causes, drowned in floods, perished from falls, or expired in other mishaps, any of these ways stock vanished risked being construed as an Indian “depredation.” Interestingly, the newspaper’s report concluded that only “possibly” would this arrest save lives. Whether or not the *Democrat’s* editor intended to suggest that other victims of recent thefts might ignore the fact that a non-Indian horse thief was among them, the suggestion that some would not be convinced was there. Unconfirmed reports of herds of animals run off by Indians also circulated, and informed the subsequent decisions of communities to seek retribution through murder. In very real ways, these reports possibly cost lives. In two similar instances, citizens organized parties to retrieve cattle and kill Indians after reports swept through the town of Yreka in Siskiyou County and throughout Lassen County’s small towns, only to find out that animals had simply wandered a bit farther away than expected and recovered without loss.¹⁰⁵ In Eden and Round Valleys, according to the deposition of settler William T. Scott, he had firsthand knowledge that not all of the losses suffered by

⁹⁸ *Red Bluff Beacon*, August 5, 1857.

⁹⁹ *Daily Alta California*, May 22, 1858.

¹⁰⁰ *Butte Democrat*, September 17, 1859.

¹⁰¹ For examples of diseases afflicting horses and cattle, see: *Yreka Journal*, February 28, 1868; *Red Bluff Beacon*, February 27, 1861; and *Daily Alta California*, October 25, 1857.

¹⁰² *Red Bluff Sentinel*, July 4, 1868.

¹⁰³ For examples of American horse thieves, see: *Butte Democrat*, October 1, 1859; *Plumas Standard*, June 7, 1862; and *Plumas Standard*, June 14, 1862.

¹⁰⁴ “Horse Thief Shot,” *Butte Democrat*, November 19, 1859. *Emphasis mine.*

¹⁰⁵ *Yreka Journal*, November 8, 1867; *Lassen Sage Brush*, August 29, 1868.

Hastings under the management of Hall were at Yuki hands. Scott recalled, “I saw three head of Hastings’s cattle dead from poverty or starvation on his range in August last.”¹⁰⁶ Given the ubiquity of losses by means other than Indians, one might assume that Americans would have at least been more circumspect in their assignment of blame. But this was not the case.

According to John Owens, another employee of Hastings, the mere presence of Indians near cattle could result in their massacre. Testifying before a state committee, Owens related how having discovered an Indian village near to where he was herding Hastings’s cattle, he and his helpers launched an unprovoked attack. Owens and his men failed to kill anyone, but they drove the Indians off; thus, protecting the cattle. Owens was careful to point out that they found the remains of stock in the now-deserted village.¹⁰⁷ Of course, this was *after* the attack rather than before it. This and similar incidents undoubtedly contributed to tensions in Eden Valley.

During March and April of 1859, the Yuki escalated their attacks on the stock guarded by Hall. By mid-April, the Yuki had killed or driven off several dozen head of stock.¹⁰⁸ Hall met with Hastings. In the short-term, the Yuki’s strategy seemed to have won the battle at hand: Hastings and Hall temporarily relocated stock away from Eden Valley, bringing them to pasture not far from the Eel River.¹⁰⁹ Hastings and Hall planned on returning them to Eden Valley, but first Yuki resistance needed quelling.

Hastings and Hall agreed that the best course of action was to use their rights as citizens. By mid-April, Hastings was in Eden and Round Valleys, where he sponsored a series of petitions that circulated in the surrounding area. According to one Round Valley settler, William T. Scott, Hastings personally approached residents urging them to sign the petition.¹¹⁰ His personal presence was perhaps usual in business dealings for Hastings. His contemporary, Oscar Shuck, recalled, “[He] is constantly swinging around the circle of his possessions to give them his personal oversight.”¹¹¹ After getting local men to sign the petition for a volunteer company, many of whom were his or Henley’s employees, Hastings sent the petition to the governor with his endorsement, asking permission to field the company for “protection” from the Indians. This would make nearly any act that the company committed legal, as the Militia Law of California allowed the governor to empower volunteers with the legal authority to defend the lives and property of citizens if the regular state militia was unable to do so. This was not a new strategy invented by whites in Mendocino County; other communities in California had drafted such petitions earlier in the 1850s. Not only was this method well known to Hastings and his compatriots, they also well understood what results such petitions to “chastise” Indians produced: Indian extermination and/or imprisonment of any survivors to reservations.

Over time, they sent not one, but more than a dozen community petitions and citizen letters to the governor.¹¹² The petitioners characterized themselves as “unanimous” representations of the will of the people.¹¹³ Hastings also appealed to the governor on his own, sending a letter to remind the governor that it was he, not Indians, entitled to protection. In his letter to Governor John B. Weller, Hastings wrote, “I have by the laws of this State the right of possession—I demand protection from the State.” Hastings called for swift action, arguing that waiting for a response by the U.S. Army would be disastrous. To cement his

¹⁰⁶ Deposition of William T. Scott.

¹⁰⁷ [Deposition of John R. Owens](#), 25 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 444, California State Archives, Sacramento, Indian War Papers.

¹⁰⁸ Deposition of H. L. Hall.

¹⁰⁹ Deposition of H. L. Hall.

¹¹⁰ Deposition of William T. Scott.

¹¹¹ Shuck, *Bench and Bar*, 246.

¹¹² For some examples of petitions sent to the governor by individuals and communities demanding action against Indians in the vicinity of Mendocino and Tehama Counties in 1859, see: Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Records 342, 343, 344, 345, 346, 347, 348, [354](#), [360](#), [361](#), 369, [370](#), [371](#), 372, 386, and 387, California State Archives, Sacramento.

¹¹³ Petition of the Citizens of Tehama County, 29 May 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 348, California State Archives, Sacramento.

claim, Hastings had obtained the dispositions of federal troops stationed in California, forwarding these to the governor.¹¹⁴ For Hastings, quick action was key, and so he facilitated communications between the state, federal forces, and himself and his community partners. Indeed, not only was Hastings partnered with Hall and Henley, he also partnered with other men in the area. According to one account, almost every piece of stock in Round and Eden Valleys belonged in whole or in part to Judge Hastings.¹¹⁵ While Hastings and the petitioners awaited the governor's reply, the situation escalated.

Pending Governor Weller's reply, Hall found matters worsening. The Yuki continued to take livestock. Hall turned to Lieutenant Dillon again, asking him to protect his home and property. This Dillon agreed to do, sending a squad of men to watch the house and surrounding area. The men eventually spent over a month watching the property for Hall.¹¹⁶ The soldiers were effective in discouraging stock theft until late May of 1859, when, within sight of Hall's house, the Yuki stole two horses. Hall demanded the soldiers accompany him and some local men to punish—meaning kill—the Indians. The army officers refused, forbidding their soldiers to do anything more than defend against attack.¹¹⁷ To make matters worse, three more horses vanished in the night. Angry, but undeterred by the refusal, Hall and his neighbors set out on their own.

Hall and four other Americans set out on the trail of the raiders. Discovering a group of Yuki butchering the meat they had taken off the stolen horses, Hall and his men attacked. As the Yuki fled, some loosed arrows at the Americans, and others leapt into a nearby brook. But to no effect; there were no American casualties. By the time the fight ended, Hall's party had managed to kill at least ten men and one woman. After searching the camp, they decided to leave the butchered meat, but only after lacing it with strychnine in hopes of poisoning unsuspecting survivors.¹¹⁸

By the time Hall returned home, the governor had replied. Responding in early June, Weller felt that federal forces enough for stabilizing the situation.¹¹⁹ But Native people continued to retaliate against the settlers and ranchers, and the soldiers continued to remain unmoved by the situation created by the citizens. The *Red Bluff Beacon* called upon the community to flood the governor with new waves of petitions for action.¹²⁰ Hastings called another community meeting.

The meeting's goal was to create another petition, in anticipation that the governor would eventually approve it this time, and to proactively form a volunteer company.¹²¹ The governor's second message arrived later in June. Apparently convinced by additional citizen's petitions and the opinion of an army officer sent to second guess Major Johnson and Lieutenant Dillon, Weller responded to his constituents, assenting to their demands. While Weller gave his approval to form a company, Hastings and

¹¹⁴ Hastings endorsed petitions initiated a chain of correspondence between himself, the governor, and military officials concerning the availability of federal and militia forces. In the absence of these regular forces, the Militia Law permitted the formation of temporary volunteer companies, which was Hastings's preferred tool for dealing with the threat to his property. For much of the chain, see: [Gov. Weller to Gen. Clarke](#), 04 April 1859, Record 362; [S. C. Hastings to Governor John B. Weller](#), 04 May 1859, Record 363; [Lt. Churchill to S. C. Hastings](#), 30 April 1859, Record 364; [S. C. Hastings to Gov. Weller](#), 30 April 1859, Record 365; [S. C. Hastings to Gov. Weller](#), 04 May 1859, Record 366; [S. C. Hastings to Gov. Weller](#), 30 April 1859, Record 367; and [Gen. Clarke to Gov. Weller](#), 13 May Record 368. All records held in: Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, California State Archives, Sacramento.

¹¹⁵ [Deposition of William Robertson](#), 21 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 433, California State Archives, Sacramento. Robertson, for example, had gone "shares" with Hastings on two hundred forty head of cattle and, later, over eight hundred more. In all, Robertson was watching more than one thousand animals as his part of the bargain.

¹¹⁶ Deposition of H. L. Hall.

¹¹⁷ Deposition of H. L. Hall.

¹¹⁸ Deposition of H. L. Hall.

¹¹⁹ Governor John B. Weller to the Citizens of Tehama County, 02 June 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 349, California State Archives, Sacramento.

¹²⁰ *Red Bluff Beacon*, June 8, 1859.

¹²¹ Carranco and Beard, *Genocide and Vendetta*, 86.

other settlers seemed to have operated well enough without the commission, and with clear consciences. The difference now would be money. The state, by law, would be paying the volunteer company's wages and supplying them with provisions and ammunition. These stores would come from local businesses and individuals, who would then submit claims for reimbursement.¹²² These bills, however, could be difficult to collect, and often also rested on petitions to the government for reimbursement.¹²³ This potential difficulty in settlement seemed to cause more hesitation for some than the prospect of fighting Indians.

In June and July, the now-authorized company failed to take the field. Ironically, the problem was one of money. Dryden Laycock, the man elected to the captaincy of the company by his peers, felt that ever receiving compensation for his services was too chancy a proposition to risk signing on for an extended tour of duty. A section of the Militia Law of California governed the formation and operation of volunteer companies, and established rates of pay for officers and men, pay Laycock doubted the reliability of. Certainly, it was not hesitation born of an aversion to killing Indians. Since 1856, Laycock admitted that he and other Americans in the Round Valley region had been going on cooperative Indian hunts, much as Hall had been doing with his neighbors. Laycock said that "the result was that we would kill, on an average, fifteen or twenty Indians on a trip."¹²⁴ Laycock admitted that he and his fellows had done this so often that he could not remember how many times; in some cases, they went out "two or three times a week" in Round Valley.¹²⁵

In July, Hastings was no longer willing to wait for Eden Valley to become safe for his cattle and horses. Using his considerable local influence, Hastings suggested that the community form a new company under a new leader, using the old permission issued by the governor. According to Laycock, Hastings offered to front the money to fund the company, which still did not convince him to take the commission assigned to him by the governor.¹²⁶ Other men distrusted Hastings's promise to pay as well, especially when he suggested a new course of action in the wake of Laycock's refusal to lead the volunteer company.¹²⁷ Hastings went in search of a new captain to lead the company.

At Hastings's suggestion, the community called another meeting in the second week of July and elected Walter S. Jarboe as their volunteer company captain.¹²⁸ Only two of the seventeen signers resided in Eden Valley.¹²⁹ While Weller had commissioned Laycock, not Jarboe, Hastings suggested that Jarboe might use the commission until official approval came from the governor. Unlike Laycock, Jarboe accepted the captaincy and took quick action to form the company and put it in the field, despite the unofficial nature of the commission.¹³⁰ Part of his rapid response was not only to sign men up—including Hall, Hildreth, and Robertson, all Hastings's employees—but also to concoct an embezzlement system to defraud the state. Jarboe used inflated beef estimates and accepted overpriced bills for food and other supplies in an arrangement to overcharge the government on paper, and split the difference with coconspirators. He also

¹²² For hundreds of examples of reimbursement and back pay claims filed by Californians, see the California State Archives, Indian War Papers.

¹²³ For example, see: the petition of thirty-six citizens of Klamath County attempting to get compensation for Edward H. Burns, a representative they sent to ask the governor for a volunteer company. Petition of Klamath County Inhabitants, January 1857, C-A 123:1-2, Bancroft Library, University of California, Berkeley.

¹²⁴ [Deposition of Dryden Laycock](#), 25 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 441, California State Archives, Sacramento.

¹²⁵ Deposition of Dryden Laycock.

¹²⁶ Deposition of Dryden Laycock.

¹²⁷ [Deposition of H. H. Buckles](#), 23 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 438, California State Archives, Sacramento.

¹²⁸ [Memorial of the Settlers of Eden and Round Valleys to Gov. Weller](#), 11 July 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 371, California State Archives, Sacramento; Secrest, "Jarboe's War," 18; and Carranco and Beard, *Genocide and Vendetta*, 88.

¹²⁹ Frank H. Baumgardner, *Killing for Land in Early California: Indian Blood at Round Valley, 1856-1863* (New York: Algora Publishing, 2006), 94.

¹³⁰ Deposition of H. L. Hall.

allowed men to be on the company's roll and receive pay, but not always be present in the field.¹³¹ Furthermore, some of the cattle butchered to feed the company belonged to Hastings.¹³² In addition to organizing the entire community to protect his stock, Hastings could later make claims and receive reimbursement for feeding the company protecting and advancing his interests.

Jarboe's company, dubbed the Eel River Rangers, quickly achieved approbation from the community. This was not surprising, as they were doing exactly what their fellow settlers wanted: killing Indians. Hall joined the group, which consisted of a standing company of about ten men under Jarboe's command.¹³³ The community supplied the group; the state, by law, would later reimburse suppliers. This happened in two ways. First, Hastings and Henley—the men with the most to gain by the company's success—backed the outfitting of the company with promises of financial support. A letter from Hastings carried by the company promised reimbursement. Later, when suppliers sought recompense from Hastings and Henley, they refused, telling claimants to seek reimbursement from the state.¹³⁴ Second, Jarboe and his men, when in need of food, simply killed cattle they found loose in the fields and hills they traveled in.¹³⁵ Hall claimed that Jarboe tracked who the cattle belonged to, presumably by brands, and reported consumption to the owners. The owners could then make a claim on the state for reimbursement. Well outfitted and provisioned the company set out to reimburse their benefactors in a different way: although most of the petitioners and members of the company were from Round Valley, they immediately went into Eden Valley and sought out the Yuki who had threatened the stock of Henley and Hastings, even though Hall and others had already killed hundreds in the previous months. Their first mission was typical of the results they would achieve.

On their first day out, the company pursued a group of Indians to the west of Eden Valley. The chase resulted in one death. Hall recalled that they shot one "squaw" by accident as they pursued the band, the rest apparently getting away.¹³⁶ By the time the Eel River Rangers returned to Eden Valley, a new wave of stock raiding had commenced, possibly in retaliation for the earlier attack and killing of the woman. The raid's location also strongly suggested that the woman and the people attacked were Yuki. After two days of raids on horses and mules belonging to Hastings and Henley, the Rangers went out again, this time following the trail left by the stolen animals. Following a day in the field and a fruitless search in rough foothill country, the volunteers returned without sighting any Indians. The men did not stay idle long.

Following Hall's discovery of several cattle carcasses, Jarboe and the company went in pursuit of the Indians they believed had committed the theft. Coming upon a village, the company attacked without warning and without ascertaining if these were the same people who had taken and butchered the cattle. Only a third managed to escape, as the Eel River Rangers killed an estimated dozen men, and took eight more people prisoner, including women and children. The company tried the adult male prisoner by a court martial, empowered, they felt, by the governor's commission of the company and the Militia Law. There is no evidence to suggest that the man had legal representation or allowed to defend himself or that he even understood English. Meanwhile, the Militia Law did not empower volunteer companies to declare or enforce martial law. Nonetheless, following a guilty verdict by the pseudo-court martial, they executed him on the spot. They incarcerated the remaining four women and three children at nearby Nome Cult Indian Farm.¹³⁷ This was typical practice for the company: kill all the males, then take the surviving women

¹³¹ Deposition of William T. Scott. In one case, William Robertson and Jarboe charged the government for seven hundred pounds of beef, yet only actually weighed out and used four hundred pounds. Scott later reported this scheme to officials in his deposition; he learned of it when offered a stake in the scheme.

¹³² Carranco and Beard, *Genocide and Vendetta*, 88. There is no evidence to suggest that Hastings was aware of Jarboe's price-gouging scheme.

¹³³ Deposition of H. L. Hall.

¹³⁴ Deposition of H. H. Buckles; Baumgardner, *Killing for Land*, 97. Kaskel, Mears & Co. of Ukiah City was the supplier named in the letter.

¹³⁵ Deposition of H. L. Hall.

¹³⁶ Deposition of H. L. Hall.

¹³⁷ Deposition of H. L. Hall.

and children to the reservation—Nome Cult Indian Farm, in this case, established in Round Valley at Henley's direction in 1856.¹³⁸ Indeed, the operations of the company stocked the reservation with Indians.

The company, even having destroyed an entire community, continued to patrol the area, now apparently looking for any Indian rather than people guilty of the recent theft. A scouting patrol sent ahead by Jarboe met two Indian men in the wilderness and killed them somewhere near the forks of the Eel River, their crime apparently crossing paths with the Rangers. The group then returned to the Eden Valley region, deciding to patrol to the southeastern portion of the valley. Stumbling upon a group of Indians attempting to remain hidden in the brush, Jarboe and his men attacked, killing another two or three. Again, the Indians' crime seemed to be that they were Indians found alive by the company. When the Rangers got back to Round Valley, they found that the governor had officially approved Jarboe as captain of the company. The governor approved the company under Jarboe for the purposes of protecting the community.¹³⁹ The way the citizens chose to define protection was typical of many American communities raising volunteer groups.

The group continued to operate against the Indians in the region. According to Hall, between receipt of official approval and November 1859, the Eel River Rangers killed approximately forty more men and took one hundred more prisoners. In November of 1859, Hall mustered out of the company after finding a man to take his place.¹⁴⁰ By this time, Hastings had fired Hall. According to Hastings, the dismissal was unrelated to any of the atrocities Hall had committed, but rather his preference to have his herds managed by other men. While no record of the exact date exists, Hastings's deposition suggests the sacking came in April of 1859. But Hastings and Hall did not otherwise part ways: the two men continued to have an arrangement in which Hall resided as a farmer and rancher in Eden Valley, at least for a time.¹⁴¹ Hastings now relied on the services of William Hildreth and William Robertson as his main stock managers in the region, both of whom were also brutal in their treatment of Indians. Meanwhile, the company continued to operate.

Throughout the service of the Eel River Rangers, Jarboe sent the governor's office regular reports. Although the governor had approved a company for defensive purposes, Jarboe's reports clearly indicated offensive operations in the region. He often failed to mention the full details of his activities and methods, however. According to accounts by members of the company and local settlers, the company sometimes raided American ranches looking to kill Indians under American guardianship, and in several cases, did murder such persons.¹⁴² Based on a comparison of the accounts of various members of the company, the number of women and children killed, as well as the dispositions of prisoners, varied widely; with some unwilling to say that any had been killed and others admitting that some had.¹⁴³

The Eel River Rangers' movements and statement of losses inflicted in their first month on duty provided the governor with a clear idea of the intensity of action in the Eden and Round Valley region, if not precisely their methods. The numbers Jarboe reported to the governor, however, failed to capture the

¹³⁸ Carranco and Beard, *Genocide and Vendetta*, 52, 89. In some instances, they killed women and children, too—sometimes accidentally in the confusion of an attack, sometimes purposely for reasons such refusing to cooperate.

¹³⁹ Deposition of H. L. Hall.

¹⁴⁰ Deposition of H. L. Hall.

¹⁴¹ Carranco and Beard, *Genocide and Vendetta*, 62; Deposition of S. C. Hastings. When Hastings became fully aware of Hall's activities cannot be ascertained, but he would have been able to see a copy of Hall's deposition in 1860, either the one reprinted in the press or released in the Minority or Majority Reports described later in this document. In this deposition, Hall revealed much of what he had done. Hastings would have also been able to see the deposition of William T. Scott, which revealed the incident with the unpaid and whipped Yuki freight haulers. Meanwhile, in Hastings's deposition, when asked if he knew that the volunteers were killing "squaws," he refused to answer.

¹⁴² Deposition of Isaac Shannon.

¹⁴³ For an example of the former, see: [Deposition of Chesley Vaughn](#), 28 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 463, California State Archives, Sacramento; for an example of the latter, see Deposition of H. L. Hall.

true damage done to Native Americans. While Jarboe and his men killed dozens of allegedly dangerous Indians, and captured many more, Jarboe's company suffered none killed or captured, and only two men wounded. Eventually, the Eel River Rangers would claim hundreds of kills. The campaign of the Eel River Rangers, which took place in the fall months crucial for preparing for winter, left the Yuki without men to hunt and protect villages, women to gather and prepare food, and stores to survive the winter. Governor Weller, reviewing the figures provided by Jarboe, was perhaps ignorant of these consequences. However, Weller did realize defense was not what the Eel River Rangers were all about.

Days after Jarboe's first report to Weller, the governor sent Jarboe a brief letter reminding Jarboe and his men to attack only those Indians certain to have stolen property. In one sense, Weller was calling for restraint. Weller implored Jarboe to remember that "Human life must not be taken when it can possibly be avoided and the women and children under all circumstances must be spared."¹⁴⁴ To encourage restraint, Weller was careful to mention that he had alternate sources of information about the operations of the Eel River Rangers. This admonition hinted that Major Johnson and Lieutenant Dillon were in contact with the governor, as later correspondence proved. But in another sense, the state was sanctioning death as the penalty for Indians who stole, which was clearly well beyond the limits of the penalties imposed under state law, even for grand theft. Weller empowered Jarboe to act as judge, jury, and executioner. Jarboe's determination of innocence or guilt was to be the arbiter of the fates of Indian peoples in the region. This, too, was clearly well outside what would be acceptable among white Americans in California, or anywhere else in the United States, in terms of being the normalized system of justice for white citizens. Jarboe's response could not have encouraged Weller.

After reporting reaching full strength for his company, twenty men, Jarboe added, "If I had forty men in the field, I could in a very short time take every hostile Indian out of the mountains."¹⁴⁵ But Jarboe's second report did show some improvement, when compared with his first: in his second month of operations, the Eel River Rangers had killed only twenty-five "bucks" and taken one hundred prisoners. Jarboe lamented the loss of a "valuable dog" on the American side. Jarboe also mentioned that the citizens of nearby Long Valley were petitioning him for help, rather than the government.¹⁴⁶ Jarboe was also sending reports to Hastings, one of which has survived and found its way into the archives. Just days after his second report to the governor, plans materialized to go on the offensive against five hundred Wailaki that had driven stock from G. H. Woodman's ranch in Long Valley.¹⁴⁷ Apparently, Jarboe had accepted the petition of the Long Valley citizens as binding upon him, and determined to go to their aid without Weller's approval. On October 16, 1859, Jarboe reported to Weller on his expedition to relieve the people of Long Valley. Meanwhile, Jarboe, demanded support from federal troops in the region.

Army officers regularly received requests from American citizens attempting to harness the might of the United States Army to deal with Indians. The murderous intent of settlers was often obvious to army officers. Such was the case of the Round Valley region. White settlers frequently asked commanding officer, Major Edward Johnson, and his subordinates, Lieutenants William Carlin and Edward Dillon, to help "chastise" or exterminate Indians. However, in practice, these officers focused on preventing violence by interposing themselves between American settlers and threatened Native communities. In short order, Superintendent Henley, reservation agents, and American citizens of the region grew to despise the trio of officers.

¹⁴⁴ [Governor John B. Weller to W.S. Jarboe](#), 08 September 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 382, California State Archives, Sacramento.

¹⁴⁵ [W.S. Jarboe to Governor John B. Weller](#), 16 September 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 385, California State Archives, Sacramento.

¹⁴⁶ [W.S. Jarboe to Governor John B. Weller](#), 01 October 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 388, California State Archives, Sacramento.

¹⁴⁷ [W.S. Jarboe to S. C. Hastings](#), 7 October 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 392, California State Archives, Sacramento.

When Johnson and Dillon arrived in Round Valley to establish their post, American settlers had just massacred forty Indians in retaliation for stock stealing.¹⁴⁸ People in Round Valley despised Johnson and Dillon. The officers had no tolerance for vigilante justice and worked to protect Indian lives rather than settlers' property. They especially hated Dillon.¹⁴⁹ Henley wrote a formal letter of complaint against Dillon and Johnson, protesting their actions in defense of Indians. The War Department agreed, and formally reprimanded Johnson. Johnson was to ensure that his command did not interfere with American citizens off the reservation and to follow the directions of the Indian agents and superintendent while on the reservation. Dillon's only authorized power was to escort trespassers off of reservation grounds. His orders specifically prohibited him from arresting any American citizens. In other words, Johnson and Dillon could do little to stop settlers from harming Indians, save by physical interposition or bluff.¹⁵⁰

Johnson wrote his own letters of complaint to his superiors. Johnson believed it was impossible to protect Indian peoples from the settlers, if the only way was by physically being there to intercede. Johnson believed the only way to stop Indian stock raiding was to end famine among the Indians. Johnson believed that getting all the Indians of the valley onto the reservation would solve the problem of starvation.¹⁵¹ But few Indians showed interest in living at Nome Cult Indian Farm. The reservation was already familiar to some, and word had spread among local Indian groups. Food was scarce there, and disease common. American settlers often came to Nome Cult to catch and kill Indians for stock theft—whether guilty or not—or for other, darker purposes. In one particularly despicable case, an American settler named Murphy had come onto the reserve and committed a rape on a Yuki girl, “12 or 14 years of age, perhaps younger.” Indian men attempted to stop the man, but they could not stop the armed Murphy; imprisoned as they were at Nome Cult Indian Farm, the Indian men possessed no weapons.¹⁵² The soldiers were powerless to apprehend the man.¹⁵³ Tensions ran high, yet some unexpected relief came in 1859.

Following a federal investigation into his activities, the government sacked Henley for mismanagement and fraud in June of 1859, although they never criminally charged him for the funds he had embezzled.¹⁵⁴ The local press carried Henley's side of the story. Among other counteraccusations, he accused Major Johnson of cowardice and slander. The only outcome that benefited Indians was that soldiers and their officers became even more reticent about attacking or apprehending Indians accused of crimes by Americans. Senior commanders became increasingly aware of the problems faced by their subordinates, and began to decline to aggressively prosecute campaigns against Indians at the requests of settlers or their representatives in state government. In June 1859, Major Johnson reported that Round Valley settlers had been engaged in a bloody, self-serving private war against the Yuki. With more than six hundred Indians of all ages and sexes killed since 1857, Johnson argued, “the Indians and not the whites require protection.”¹⁵⁵ Johnson noted that because of the actions of Jarboe's volunteers, especially their destruction of Indian villages, regular subsistence practices had ceased. Only stock theft kept Indian people from starvation.¹⁵⁶

As fear grew among Indian people, Johnson and Dillon were successful at convincing some Yuki to seek protection on the reservation. However, once there, they found little food and a prevalence of disease. From eight to ten Indian people were dying per day from problems associated with disease and malnutrition. The practice of kidnapping women and children from the reservation also continued. Much

¹⁴⁸ William F. Strobebridge, *Regulars in the Redwoods: The U.S. Army in Northern California, 1852-1861* (Spokane: Arthur H. Clarke Company, 1994), 177-178.

¹⁴⁹ Strobebridge, *Regulars*, 183-184.

¹⁵⁰ Strobebridge, *Regulars*, 185.

¹⁵¹ Strobebridge, *Regulars*, 186.

¹⁵² [Lieutenant Edward Dillon to Major Edward Johnson](#), 23 March 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 356, California State Archives, Sacramento.

¹⁵³ Strobebridge, *Regulars*, 187.

¹⁵⁴ Carranco and Beard, *Genocide and Vendetta*, 73, 85.

¹⁵⁵ Strobebridge, *Regulars*, 187-188.

¹⁵⁶ Strobebridge, *Regulars*, 189.

of this problem began with Henley, who had been hiring out Indians as laborers or allowing them to become indentured—a practice that continued long after his firing.¹⁵⁷ Henley's son, George, who worked on the reservation for his father, led parties of reservation employees to forcibly bring in local Indian peoples. In one instance, he either killed or had killed a lame Indian man who "looked like a bad Indian."¹⁵⁸ Further undermining attempts to make reservations safe havens were volunteer companies, especially those seeking bounties. Johnson called Jarboe and his men "assassins," as they used area reservations as a site to collect and kill Indians.¹⁵⁹ Many residents of the region, though, thought their actions morally and legally justified. Charles H. Eberle, who had lived in Round Valley since 1857, believed his neighbors were far from assassins; they were righteous, upstanding people

Eberle had participated in the petition process that demanded aid of the governor against the Indians. Eberle was also a local magistrate, empowered as a justice of the peace for the area.¹⁶⁰ Under state law, Eberle had the power to deal with Indians in the state, separate of the federal government. When the state legislature dispatched an investigative committee to the region, Eberle was a key witness. In a deposition, he staunchly defended the actions of his neighbors as righteous responses to savage Indian thefts and murders. William Hildreth, one of Hastings's stock managers in Eden Valley and a member of the Eel River Rangers, concurred with Eberle's assessment. Hildreth claimed that they were "sure to always get the guilty Indians and not punish Innocent ones."¹⁶¹ But how Jarboe and the Rangers determined guilt or innocence went unsaid. Those captured rather than killed went to reservations, which involved many hardships that still might result in death.

Hildreth, like many white settlers in Round Valley, had intimate knowledge of reservations; indeed, he had worked on the reservation for a time. While he admitted that conditions were not the best at Nome Cult Indian Farm, he claimed that Indians who performed work as directed, did well enough. For eight hours of work, Hildreth recalled, each worker received six ears of corn. Indians who did not work received nothing. Protein in their diets was problematic, as Indians received no rations of meat.¹⁶² Not surprisingly, rampant malnutrition, starvation, and disease ensued on this and other reservations, especially as immune systems weakened by hunger and malnourishment struggled to successfully fight new diseases brought by the invaders. But Nome Cult Farm held other problems for Native peoples beyond hunger and disease.

According to Lieutenant Dillon, Nome Cult Indian Farm was a convenient location for American settlers and ranchers to obtain grazing pastures and Indian labor, as well as cut through as a shortcut to the valley beyond. The problem went beyond simple trespassing. Dillon believed "from observation and conversation with various parties I am firmly of the opinion that it is the object of certain parties to get rid of these Indians on the reservation for the purposes of possession themselves of the land occupied by the Government and to still further to extend the stock range."¹⁶³ American squatters had even gone so far as to build homes on reservation property.¹⁶⁴ A worse problem, still, was when white men came on the reservation to abduct or lure away internees.

Some men who needed the services of housekeepers and seamstresses, and learning that Nome Cult Indian Farm employed some Nevada Indian women, came onto the reservation, and found a way to get them to leave—perhaps by offering better food than what the reserve provided—or perhaps even some pay. Abduction of two Indian girls may have been for these reasons. But the kidnappings might have originated from more disturbing reasons, as well. Reservation employee George Rees recalled, "One of them is about

¹⁵⁷ Strobridge, *Regulars*, 190.

¹⁵⁸ Dillon to Johnson, 23 March 1859.

¹⁵⁹ Strobridge, *Regulars*, 189-190.

¹⁶⁰ [Deposition of Charles Eberle](#), 22 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 434, California State Archives, Sacramento.

¹⁶¹ Deposition of William Hildreth.

¹⁶² Deposition of William Hildreth.

¹⁶³ Second Deposition of Lieutenant Edward Dillon.

¹⁶⁴ Deposition of George Rees.

sixteen and the other twenty years of age. They are tolerably good looking. They appear to be contented on the Reserve.” Rees and his men recovered the two girls from the homes of local white men. Rees had to lock the girls up each night, to both punish them and prevent repeated abductions. Despite a padlocked door, Rees found the girls gone again. Rees later recovered one of them at the home of James Wilsey. The problem of abduction was an old one. As early as 1855, Superintendent Thomas J. Henley was fighting against kidnappings of Indians from reservations. According to a newspaper account, Henley discovered a group of men who were abducting Indian children, selling them “from \$50 to \$250 each.”¹⁶⁵ Ironically, Superintendent Thomas Henley’s son, George Henley, later abducted Indians and refused to return them. In one memorable case, George Henley abducted perhaps the most valuable Indian worker at Nome Cult and refused to give him up. Only with the help of Lieutenant Dillon and his men was the kidnapped man recovered by force. Rees also objected to the behavior of other men formerly associated with the reservation. Like George Henley, former reservation agents such as Simmon P. Storms used reservation Indians to work their lands as slave labor, sending the Indian workers back to the reservation for feeding or when not needed.¹⁶⁶ George Henley, Storms, and others, however, were not ashamed of their behavior, and felt they had done nothing wrong. George Henley, in fact, complained to state officials that Rees had stolen his Indian boy back from him.¹⁶⁷ In short, the Yuki and other Indian people on the reservation were slaves. Such treatment made it hard to keep Indian peoples on the reservation, or remain patient in the face of other difficulties.

Given the unsecured nature of the reservation, it was no wonder that the Yuki and other Native people often fled from Nome Cult Indian Farm. The world they fled into, though, was uncertain, patrolled as it was by both Jarboe’s Eel River Rangers and troops under Dillon. The two men struggled to accomplish their objects in the face of opposition by the other. The community around Nome Cult clearly sided with Jarboe, approving of the retribution exacted on Indians, as well as the steady supply of laborers provided in the form of prisoners. So, too, did the press. Local newspapers never sided with Indian peoples, and criticized the efforts of Dillon and Johnson repeatedly. In one instance, the *Red Bluff Beacon* reprinted letter criticizing Johnson and Dillon for insisting on evidence of guilt before killing Indians and urged the community to get behind the Eel River Rangers. The anonymous correspondent wrote from Nome Cult, and was apparently one of the squatters living on the reservation. He suggested that Jarboe’s Eel River Rangers eliminate the Indian threat.¹⁶⁸

During the campaign, Jarboe appealed to Lieutenant Dillon for assistance in capturing or killing Indians. Dillon refused him twice.¹⁶⁹ After the second refusal, Jarboe warned Dillon to keep all the Nome Cult Indians safely on the reserve, because all other Indians they found were fair game.¹⁷⁰ Given extant examples of back channel communications between Jarboe and Hastings, it seems likely that Hastings knew of Jarboe’s strategies. In the meantime, events transpired to tip the balance further in the favor of Jarboe’s efforts.

The army closed posts in portions of northern California, including some within Major Johnson’s area of responsibility. Johnson, disheartened by this, requested an extended leave. Johnson left California and did not return.¹⁷¹ Johnson’s second in command, Lieutenant William Carlin, took over the command. Any relief settlers felt at Johnson’s departure did not last long: Carlin, if anything, was even more active in his protection of Indian peoples. Carlin and Dillon continued to operate as Johnson had. Carlin arrested

¹⁶⁵ *Humboldt Times*, May 5, 1855.

¹⁶⁶ Deposition of George Rees.

¹⁶⁷ [Deposition of George W. Henley](#), 27 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 459, California State Archives, Sacramento.

¹⁶⁸ *Red Bluff Beacon*, August 24, 1859.

¹⁶⁹ For the exchange, see Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Records 393, 394, 396, and 397, California State Archives, Sacramento.

¹⁷⁰ [Walter S. Jarboe to Lieutenant Edward Dillon](#), 21 December 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 406, California State Archives, Sacramento.

¹⁷¹ Strobridge, *Regulars*, 193-194. Johnson was gone when Bland’s body was discovered.

an American for taking an Indian woman by force from the reservation. But the new reservation agent not only reversed Carlin's order, he also let the man take the woman.¹⁷² Angry, Carlin kept a close watch on the agent. Carlin soon discovered that the reservation agent was using government property to run a whiskey trade. Another federal employee was apparently selling the liquor out of the local post office.¹⁷³ It was not only fluctuating army officers affecting matters. Political leaders changed, too, although attitudes among them seemingly did not.

Following the inauguration of Governor John Downey, for instance, citizens in Round Valley bombarded the new governor with new tales of woe blamed on from hostile Indians and apathetic army officers. Downey responded to his petitioners by demanding an explanation of the army high command in California. Dillon's superiors directed him to help respond to Downey's queries. Dillon contradicted local white citizens by reporting only one American killed in the last year, and he trying to kidnap an Indian woman. No stock was unaccounted for during 1860, either. Dillon argued that the settlers were attempting to obtain the rest of the Indian land in the region by exterminating them. Carlin supported Dillon's opinions in his own message to Downey.¹⁷⁴ Carlin also added new criticisms of the reservation agents. In addition to the liquor trade run from the reservations, agents were using the reservation to provide brothel services to locals, and allowing squatters to occupy federal lands reserved for Indians.¹⁷⁵ The complaints lodged by the two officers went unheeded. Carlin departed California in the spring of 1860, disgusted as Johnson had been. Lieutenant Dillon was now in command.

Not long after assuming command, Dillon encountered more wild claims by settlers of the Round Valley region to the state government. After settlers claimed in petitions that they had lost \$100,000 in property to Indian depredations, Dillon researched the claims and found it to be less than one-third that amount. As they had done in the petitions championed by Serranus Hastings in 1859, the community continued to exaggerate the threat of Indian depredations. Dillon, as Johnson and Carlin had done, contradicted the settler's claims as gross exaggerations. Later, during investigations by the state legislature, some settlers confirmed the validity of the army officers' statements that the settlers were exaggerating their claims.¹⁷⁶ Settlers, in turn, continued in their complaints against the army officers, especially Dillon. One settler claimed that Dillon was rooting for the Indians, even helping them, something that Hastings had claimed as well.¹⁷⁷ Dillon was undeterred, continuing his reports on the activities of the settlers in Mendocino County.

In 1861, Dillon informed his superiors of at least fifty instances of Indian children kidnapped and sold to local settlers. This crime against Indian people further damaged Indian-white relations.¹⁷⁸ Since 1857, some residents estimated that whites had killed as many as five hundred Indians in Round Valley alone.¹⁷⁹ Despite this grim statistic, and despite Dillon's role as the one remaining non-Native guardian of

¹⁷² Strobridge, *Regulars*, 195-197.

¹⁷³ Strobridge, *Regulars*, 196-197.

¹⁷⁴ Strobridge, *Regulars*, 197-198.

¹⁷⁵ Strobridge, *Regulars*, 199.

¹⁷⁶ [Deposition of Lawrence Battaile](#), 28 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 462, California State Archives, Sacramento; and [Deposition of George W. Jeffress](#), 28 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 466, California State Archives, Sacramento.

¹⁷⁷ Affidavit of Simmon P. Storms, 20 January 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 417, California State Archives, Sacramento. See also Deposition of S. C. Hastings for Hastings's claims about Dillon.

¹⁷⁸ Strobridge, *Regulars*, 241-242.

¹⁷⁹ Deposition of Simmon P. Storms.

Indian welfare, eventually the army closed its outpost in Round Valley in June of 1861, calling it an inefficient placement of troops, situated far from resupply.¹⁸⁰

Even while attempting to get Lieutenant Dillon and his men to help them, Jarboe's company continued launching attacks against the Yuki throughout late 1859 into 1860. The Eel River Rangers killed eleven "bucks" and captured thirty-three other Indian people, although nineteen were able to escape on the way back to Round Valley. Over time, Governor Weller became increasingly unhappy with Jarboe. In a terse reply to one of Jarboe's reports, Weller reminded Jarboe of his previous admonishments about offensive versus defensive operations. He also voiced new concerns about Jarboe's decision to operate outside the limits of Round and Eden Valley: "Your company was organized to protect the lives and property of the Citizens in certain localities and not to wage a war of extermination against the Indians."¹⁸¹ Jarboe returned to the Round Valley area and continued his operations.

The prolific Jarboe reported to Weller on October 28, 1859, that he had resumed normal operations. In the two weeks since his last report, the Eel River Rangers had killed nine and taken one hundred twenty prisoners. William Daley, a member of the Eel River Rangers, however, had apparently raped one of the prisoners. Jarboe euphemistically reported his discharge for "imprudent conduct with a squaw."¹⁸² As the woman raped was a "squaw," no penalty other than dismissal was forthcoming.

As Indian people prepared for the early winters that often hit the northern quarter of the state, Jarboe and the Eel River Rangers remained active. Given the impossibility of obtaining access to many traditional winter food sources, Native people of the region began to take American livestock as a substitute. The choice was death by starvation if they did not. Jarboe and the Rangers made sure that the choice to take livestock meant death as well. And not just for the Indians of the Eden and Round Valleys. Against instructions, Jarboe and the Rangers returned to answer the call for help from Long Valley residents. Over the course of November, the Eel River Rangers killed thirty-six and took fifteen prisoners, again taking no losses themselves.¹⁸³ While the company operated during November of 1859, terrible winter storms hampered the volunteer company's efforts to kill Indian people. Indian peoples, meanwhile, caught and butchered livestock to survive, though some of the stock may have already expired due to snow and freezing temperatures; indeed, one cannot help but notice this allegedly valuable livestock was roaming unprotected in severe weather. But as Americans had done before and since, they attributed the losses to Indians, not the weather. Despite Jarboe's unwillingness to follow orders and remain strictly in a defensive role in Round and Eden Valleys, it may have been a petition of his neighbors that deprived him of his company and led to its disbandment.

In an undated petition written sometime in December 1859, citizens asked Governor Weller to relieve Jarboe of his command. Their complaint: the company cost too much money because of how Jarboe ran the group.¹⁸⁴ Undoubtedly, this stemmed from the way the company financed its operations through promises of later compensation by the state. Jarboe and his men consumed local cattle for food—ironically the same as local Native Americans—and the owners worried that they would absorb the losses, not the

¹⁸⁰ Strobridge, *Regulars*, 244. Dillon left Round Valley and the U.S. Army in the spring of 1861 to join the Confederate Army. Calling Dillon a "disgrace to the army" because of his protection of Indians, not for his treason, the *Red Bluff Beacon* delightedly noted his departure. *Red Bluff Beacon*, July 18, 1861.

¹⁸¹ [Governor John B. Weller to W.S. Jarboe](#), 23 October 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 399, California State Archives, Sacramento.

¹⁸² [W.S. Jarboe to Governor John B. Weller](#), 28 October 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 400, California State Archives, Sacramento.

¹⁸³ [W.S. Jarboe to Governor John B. Weller](#), 03 December 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 402, California State Archives, Sacramento. The total includes an Indian girl who froze to death while hiding from the Rangers, although Jarboe indicated that it was her fault, not his.

¹⁸⁴ [Petition of the Residents of Round Valley](#), undated [ca. December 1859], Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 407, California State Archives, Sacramento.

state. Whether it was this petition or anger over Jarboe's second visit out of bounds to Long Valley, Weller acted.

In a brief letter to Jarboe on January 3, 1860, Governor Weller ordered the Eel River Rangers disbanded. Without giving a reason why, he thanked Jarboe and the men for their service.¹⁸⁵ Public outcry was immediate. In one vivid example, a petition of eighty-two citizens of Mendocino County called upon Weller to reinstate Jarboe and the company less than two weeks after it had disbanded. Citing depredations at a new level of intensity on the part of Indians, the petitioners asked that the company double in size. What the petitioners failed to realize was that the depredations that the Rangers had "held in subjugation" during their service were actually retaliations against Americans for the actions of the Eel River Rangers, and not some phenomena that they had checked for a time but was again unleashed with them.¹⁸⁶ Meanwhile, an unlikely source of resistance had developed to the possible restoration of the Eel River Rangers under the command of Jarboe: the men of the Eel River Rangers, themselves.

In a petition to their fellow citizens of Mendocino County, and forwarded to the new governor, Milton Latham, the men of the Eel River Rangers expressed their desire to renew their service, but under a commander other than Jarboe. Several actions by Jarboe had angered them. First, they were constantly hungry and forced to eat only "half rations" because Jarboe was always attempting to reduce costs; ironically, the very thing the nine petitioners from the Round Valley charged he was not doing effectively. Second, apparently at least some people believed Jarboe's efforts to reduce the blood shed by Native Americans were sincere: the men claimed that Jarboe's concern for Indian welfare put them at risk and that "he did not value their lives above that of a Digger." Third, he had discharged "good and true men against the Protestation of the company for no other reason or offense than that which he was himself guilty of and first set the example. In other words, Jarboe had been the first to rape a "squaw" and so why should they be held to a different standard, as William Daley and others were."¹⁸⁷ Fourth, and last, they charged that he was defrauding the citizenry and the state. The insinuation being that he was charging the people for full rations and supplies, but issuing much less and planning on pocketing the difference.¹⁸⁸

Despite the serious and specific accusations presented by members of the Rangers, they recanted their charges ten days later in a second petition sent to the governor. The men of the Rangers represented to Governor Latham that they had written their petition in a "moment of Excitement" and included in it "misrepresentations" about Jarboe. They asked Latham to disregard their "Errors committed in the heat of passion" and return Jarboe to the head of the company, claiming that they now better understood the exigencies of command and that, in hindsight, his actions were something altogether different than what they had originally thought.¹⁸⁹

Nothing came of the request to reinstate Jarboe or the company. Governor Milton Latham surrendered the governorship to take a seat in the United States Senate made vacant by a death. And when John Downey succeeded him, no reinstatement followed. This ended Eel River Rangers as an authorized volunteer unit, except for the money owed them. However, in practice, Hall and other former members continued to go on raids even after the company was formally disbanded.¹⁹⁰ Jarboe, on February 18, 1860, sent Governor John Downey the bill for the company, claiming that for the twenty-three actions they had

¹⁸⁵ [Governor John B. Weller to W.S. Jarboe](#), 03 January 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 409, California State Archives, Sacramento.

¹⁸⁶ [Petition of Residents of Mendocino County](#), 15 January 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 413, California State Archives, Sacramento.

¹⁸⁷ Apparently more than one man was discharged for rape, even though Jarboe only reported one incident.

¹⁸⁸ [Petition of the Eel River Rangers](#), 15 January 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 414, California State Archives, Sacramento.

¹⁸⁹ [Second Petition of the Eel River Rangers](#), 25 January 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 420, California State Archives, Sacramento.

¹⁹⁰ Secrest, *Great Spirit Died*, 306-307.

fought and the two hundred eighty-three Indians they had killed in five months' time, the state owed \$11,743. Of this total, the payment due the men of the company was \$5,779.¹⁹¹

Ultimately, the company only partially succeeded in its goal of killing Indians to make the valleys safe for livestock; they had essentially depopulated Eden Valley of Yuki, while Round Valley was not—and, indeed, trouble would continue there for several years. Hastings's property was secure, and he reneged on his promises to guarantee payments, creating much animosity in the community.¹⁹² With the petitioned for goals accomplished, Hastings had apparently abandoned the pretense of concern for his neighbors. Many residents found it hard, if not impossible to collect on the debts incurred by Jarboe under the cover of Hastings and Henley's promissory note, which he apparently denied existed.¹⁹³ The people of Round Valley soon began a new round of petitions, this time to successive governors and representatives trying to recover their losses. Hastings had participated in a process that now cycled onward, without his personal involvement, but tracing its origins back to him and his interests.

Americans not only petitioned their representatives at the county, state, and federal levels for help against Indians or the remuneration of claims in the ways they had done in concert with Hastings, they also acted in concert at the local level using their own means to fund continued operations against Indians. Citizens sometimes took up a subscription to fund campaigns against Indians when their requests went unfulfilled in what they judged as a timely or effective manner. This was a common motivation. Some United States Army officers, such as Lieutenant Dillon, proved unwilling to resort to the quick and easy expedient of wiping out Indians wholesale. Dillon, for instance, reported to Pacific Division headquarters in San Francisco that settlers, not Indians, caused the disturbances in Round and Eden Valleys. His reports also belied the wild claims of many white settlers killed. In fact, in 1859, he reported that only one white man had died by Indian hands, and he in the process of abducting an Indian woman.¹⁹⁴ This contradicted the vague claims of settlers and ranchers, whose petitions rarely identified by name people killed by Indians and, curiously, always seemed to deal in regular increments of five when stating the number of people killed.

This caused governors of California to hesitate to give permission to their constituents to form volunteer companies, although they almost always submitted eventually. One way local settlers got around such inconveniences was to take up subscriptions. These subscriptions were collections of money, given voluntarily by the agreement of local citizens, for the purposes of funding settler campaigns against the Indians. Funding campaigns against Indians were democratic, grass-roots processes. According to the *Marysville Weekly Express*, the people of Red Bluff, which was the county seat of Tehama County, had “adopted . . . [a plan] to chastise the Indians for their many depredations during the past winter. Some men are hired to hunt them, who are recompensed by receiving so much for each scalp, or some other satisfactory evidence that they have been killed. The money has been made up by subscription.”¹⁹⁵ In Humboldt County, the people of Uniontown and Eureka voted for a tax on residents to fund “to prosecute the Indian war to extermination.”¹⁹⁶ Taxes and subscriptions such as these were inherently democratic in the view of some Californians. They represented the recourse that any community might turn to in the absence of good government at higher levels. In Red Bluff, Tehama County, the citizens tied the collection of subscriptions to the failure of the state and federal governments to adequately represent the wishes of their citizenry by

¹⁹¹ [Jarboe to Gov. Downey](#), 18 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 432, California State Archives, Sacramento.

¹⁹² Deposition of H. H. Buckles.

¹⁹³ [Deposition of B. Newman](#), 23 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 440, California State Archives, Sacramento.

¹⁹⁴ [Edward Dillon to Headquarters](#), Department of California, 27 January 1860, F3753, Record 423, California State Archives, Sacramento, Indian War Papers. This report was forwarded to Governor John G. Downey; see [N. A. Clarke to John G. Downey](#), 01 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 424, California State Archives, Sacramento.

¹⁹⁵ *Marysville Weekly Express*, April 16, 1859.

¹⁹⁶ *Humboldt Times* quoted in *Red Bluff Beacon*, September 29, 1858.

failing to exterminate the Indians in the region. Having to come up with additional monies to fund their own extermination campaigns, however, smacked of taxation without representation for some. In one man's opinion, published in the official newspaper for the county, "Were we a band of outlaws who denied the authority of the courts, or an isolated community where tax-gatherers never come, we could submit to neglect like this without a murmur, but, situated as we are, contributing, as we do, more, perhaps . . . than any county in the State . . . we feel that we are entitled to have the protecting arm of the State thrown around us."¹⁹⁷ Thus, citizens used subscriptions and special taxes as alternate means of obtaining representation for Americans. In the 1850s and 1860s, this meant subscription and tax funds used to arm, outfit, and provision groups of men looking to root out Indians living nearby, and then kill them.

Oftentimes, the killings included women, children, and the elderly. Given that many Americans thought Indians were animals, not people, it was easy to rationalize killing Indians as something more akin to killing a pesky animal near your home or herd, rather than accepting it as murder of another human being. As the *Chico Weekly Courant* described it, "Nothing but extermination will keep them from committing their depredations. It is a false notion of humanity to save the lives of these red devils. There should be no prisoners taken, but a general sacrifice made of the whole race."¹⁹⁸ The *Courant*, reflecting the philosophy behind the aforementioned slaughters of predatory animals, did not stop there, claiming, "They are of no benefit to themselves or mankind, but like the rattlesnake live only to slay. Like the wild beast of prey they are necessarily exterminated by the march of civilization. The tribes of Indians upon this Coast can no more be civilized than the jaguar."¹⁹⁹ But how was one to meet such a threat posed by wild animals? "If necessary let there be a crusade, and every man that can carry and shoot a gun turn out and hunt the red devils to their holes and there bury them, leaving not a root or branch of them remaining, then we shall record no more massacres."²⁰⁰ In other words, let there be a complete annihilation of the Indian population. The structure of the subscriptions also reveals American intentions toward Indians.

Even more overtly economic incentives precipitated Indian slaughter in California. In Tehama County, a company paid for by subscription was not raised for the duration of an emergency or to settle a specific conflict with Indians by arms, but instead for a two to three-month tour of duty. In that span of time, they would operate "to clean out" any Indians they might come across.²⁰¹ Members of the company were cared for by the community during their tour, receiving supplies and medical care from citizens and compensation for their time from the subscription fund.²⁰² One might also note that since reimbursement was due to citizens that supplied volunteer companies by California law, it was profitable and desirable for Americans to promote conflict with Indian people.²⁰³ Subscriptions, then, were one way of funding such crusades over extended periods of time. Other ways of ridding an area of Indians existed, and settlers employed these as part of their extermination campaigns as well.

Not unlike subscriptions to fund Indian hunting parties were bounties instituted in some communities.²⁰⁴ In one example, a county paid \$.50 for every Indian scalp and \$5 for every Indian head brought in. In Shasta City, one could get \$5 for an Indian head, and a local man attested to interest in

¹⁹⁷ *Red Bluff Beacon*, June 15, 1859.

¹⁹⁸ *Chico Weekly Courant*, November 18, 1862.

¹⁹⁹ *Chico Weekly Courant*, November 18, 1862.

²⁰⁰ *Chico Weekly Courant*, November 18, 1862.

²⁰¹ *Red Bluff Beacon*, June 22, 1859.

²⁰² *Red Bluff Beacon*, June 29, 1859.

²⁰³ For additional examples drawn from the period under discussion, see: [Fred Greene to Gen. Kibbe](#), 31 January 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 425, California State Archives, Sacramento; and [Deposition of William J. Hildreth](#), 24 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 443, California State Archives, Sacramento.

²⁰⁴ Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven: Yale University Press, 1988), 141-148; James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984), 184-186.

claiming such rewards as he noted that one man alone brought in as many as twelve Indian heads on one trip alone.²⁰⁵ In the community of Honey Lake, the life of an Indian was worth much less, as they paid only \$.25 for an Indian scalp.²⁰⁶ Heads and scalps were just two of the proofs one might present; in some communities, “some other satisfactory evidence” of the extermination of an Indian might do in place of a scalp.²⁰⁷ Given that the average daily wage for a miner in California in the late 1850s was \$3 per day, scalp and head bounties could afford one a good living when unemployed or in a pinch for funds.²⁰⁸ These funds were often collected by community subscriptions, as in the case reported by the *Shasta Herald*: “A meeting of citizens was held a day or two before at Hazelrigg’s store, and measures taken to raise a fund, to be disbursed in payment of Indian scalps, for which a bounty is offered.”²⁰⁹ To make matters worse, the *Sacramento Union* reprinted the story, informing an even wider audience that money was to be made directly by killing Indians.²¹⁰ In other cases, private individuals put up the funds, as was the case when John Bidwell reportedly placed a \$500 bounty on the head of a Mill Creek Indian who was interfering with his business. Sadly, and ironically, an Indian brought back the chief’s scalp as proof of the kill.²¹¹ Perhaps the most shocking bounty opportunity was one never imposed. Suggested by the editors of the *Lassen Sage Brush* in 1868, “every Indian killed” would produce a \$500 bounty for the killer.²¹² Any Indian found not on a federal reservation would be worth \$500 dead. This, they argued, would stop the “brutal savage.”²¹³ Considering the amount proposed, it likely would have produced the absolute extermination of all California Indians, down to the last child. Rewards that necessitated the killing of Indian peoples, guilty or not, were obviously genocidal in their intent, as they encouraged wanton slaughter for profit rather than allowing for self-defense, as Americans claimed. These grisly standards of proof belied the stated goal of self-defense put forth by Americans; and instead revealed the true goal of destruction of Indian people in and around their communities and the lands they coveted. In part, this helps explain the rise of a category of men known as “Indian hunters,” who came to prominence in northern California during the 1850s and 1860s.

Jackson Farley worked as an Indian hunter on behalf of local communities and state. In a sense, the notion of these men as dedicated “Indian hunters” was misleading, though, because most of them were much like their neighbors who hired and helped them: they were settlers in the region. In fact, Indian hunters were usually members of the citizenry that set out to exterminate local Indians at the head of a column of their neighbors. In the case of Jackson Farley, he headed a citizen’s volunteer company based in Long Valley, where “about one hundred voters in the Valley and vicinity” had become tired of Indian depredations.²¹⁴ Gathering together, inspired by the recent actions of the settlers of Round and Eden valleys, Long Valley citizens voted to elect a captain and officers to lead volunteer companies against the Indians. Some of these were unauthorized companies, some authorized. Taking a cue from Hastings’ effective use of petitions, they, too, used their power as American citizens to call upon the state and federal governments to defend their lives and property. In turn, learning of this strategy, people in other communities organized along these lines well into the 1860s. According to historian Frank Baumgardner, Hastings’s example led

²⁰⁵ Rawls, *Indians of California*, 185.

²⁰⁶ Rawls, *Indians of California*, 185.

²⁰⁷ Quoted in Rawls, *Indians of California*, 185.

²⁰⁸ Richard B. Rice, William A. Bullough, and Richard J. Orsi, *Elusive Eden: A New History of California* (Boston: McGraw Hill, 1996), 199.

²⁰⁹ *Shasta Herald*, May 11, 1861.

²¹⁰ *Sacramento Union* (Morning Edition), May 13, 1861.

²¹¹ *Quincy Union*, October 27, 1866.

²¹² *Lassen Sage Brush*, May 16, 1868.

²¹³ *Lassen Sage Brush*, May 16, 1868.

²¹⁴ [Deposition of Jackson Farley](#), 26 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 448, California State Archives, Sacramento.

to the raising of volunteer companies not just in Mendocino County, but in Humboldt and Trinity Counties as well.²¹⁵

Farley was a farmer and rancher residing in Long Valley. He operated unauthorized companies searching out and killing Indian peoples at the same time the Eel River Rangers were in the field. Farley had experienced three years of seasonal stock raids in Long Valley, all of them occurring in the two months immediately preceding winter. While it might seem obvious today that Native people in the area were hungry and attempting to get food to survive another winter, for Farley it was simply an act of wanton thievery by “wild” savages. Over three years, Farley lost a total of four horses and two cows, though one of the horses he only “believed” to be his own.²¹⁶ Like many farmers and ranchers of the era, stock was roaming free, sometimes unattended for days or weeks. William Frazier admitted that he and his neighbors could not, in fact, say with certainty how many head of stock they lost for this very reason. Frazier had seen the remains of animals outside Indian villages, and had been unable to know how the animal had perished or if Indians were culpable. In some seasons, “the grass was short” and animals had to stray up into the hills to graze. In fact, when pressed, Frazier had to admit he had no idea how many of his animals had been lost or to whom.²¹⁷ Despite all the many reasons a cow, horse, or mule might go missing, for Farley, Frazier, and their neighbors they knew who had taken their livestock, and formed parties to “punish” the Indians. In this, they consciously emulated Hastings and the settlers of Eden and Round Valleys. Moreover, Hastings helped them.

The residents of Long Valley sent two petitions to the governor of California, demanding permission to form a volunteer company to further “punish” the Indians. Some individual settlers, such as G. H. Woodman, also sent individual petitions. Woodman argued that a company could perform the work of “guarding and protecting themselves against the incursions of Indians.”²¹⁸ Hastings wrote the governor, John Downey, using his considerable influence to urge authorization, as well.²¹⁹ In December 1859, after gubernatorial approval, they formed their official company, and the citizenry elected Farley and Frazier officers. Farley’s company was a highly effective organization for killing Indians, and emblematic of how many companies operated by loosely interpreting what “guarding and protecting” meant.

Farley’s company established a patrol in the mountains between Long Valley and adjacent Round Valley. This decision was especially disastrous for Native people, because as men like Farley and Frazier pushed Indians out of these mountains toward Round Valley, companies of men such as the Eel River Rangers under Jarboe were pushing Indian peoples out of Round Valley toward Long Valley.²²⁰ Indian peoples like the Yuki and Cayapomos lived in a deadly trap, with bloody-minded Americans applying a genocidal constriction. In fact, all over California, Americans concerned only with driving Indians from their sight gave little thought to the fact that they were driving Native Americans into similar situations, elsewhere. The way the company attacked Indians was also typical. According to Frazier, a typical engagement took place at dawn and usually lasted only minutes. The company’s first raid was typical of the rest: at dawn “we attacked and killed 20 consisting of Bucks, Squaws and children and also took 2 squaws and one child prisoner. Those killed were all killed in about three minutes. . . . We found in this ranheria no sign of any depredation having been committed by these Indians.” The volunteer company

²¹⁵ Baumgardner, *Killing for Land*, 69.

²¹⁶ Deposition of Jackson Farley.

²¹⁷ [Deposition of William Frazier](#), 22 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 436, California State Archives, Sacramento.

²¹⁸ [G.H. Woodman to Governor Milton S. Latham](#), undated [ca. December 1859], Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 354, California State Archives, Sacramento.

²¹⁹ [S. C. Hastings to Gov. John Downey](#), 02 February 1860, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 486, California State Archives, Sacramento.

²²⁰ Deposition of William Frazier.

delivered Indian prisoners into the hands of American settlers “who promised to take care of them.”²²¹ By this they meant, make them slaves on their farms and ranches.

Farley, Frazier, and company continued to raid Indian villages. They indiscriminately killed men, women, and children. Calling the men “bucks” and the women “squaws” was habitual. Indians were not people, to many Americans, but animals. Frazier graphically described killing elderly women, children, and wounded men without any compunction.²²² In their first genocidal campaign, Farley and Frazier led forty-six citizens of Long Valley against the Indians in a bloody three-month campaign that led to the deaths of between one hundred fifty and two hundred Yuki and “Cayapomo” Indians. The company took only twenty-two prisoners. The prisoners were sent to reservations or American homes, where more horrors awaited them under corrupt and inept federal Indian agents or in households headed by some of the same men who had killed their families and friends.²²³ Following its authorized campaign to “punish” Indians, the company remained in operation intermittently, waiting for Farley to call them into action whenever Indian peoples of the region allegedly threatened stock in Long Valley.²²⁴ Ten years later, their macabre success was obvious.

Within a decade, not one Native person remained in Long Valley. The community was able to take a new step at this juncture: the banning, by law, of all Indians from Long Valley. In 1868, the people of Long Valley decreed that “no Indian is now allowed under any pretext whatever to come in to the country.”²²⁵ It had literally become illegal to be an Indian in the valley. What made it all the better for non-Native residents of Long Valley was that not one member of the community—not one—had ever been killed: not by raids, not by unexplained murder, not in action as a member of Farley’s company.²²⁶ In fact, no evidence of any American even being wounded exists.²²⁷ Hundreds of Indian people had died to make sure cattle, horses, hogs, and oxen could roam free. Indeed, by the close of 1860, evidence suggests that no Yuki or other Native Americans lived in Long, Eden, or Round Valleys, unless it be as internees on the reservation or as slave laborers on the lands of white settlers. In 1862, the *Sacramento Daily Union* reported that 25 percent of all the white households in the region had Indian children living in them.²²⁸ This all in the pursuit of making these valleys fit for cattle ranching and farming by a few dozen white settlers, most of whom were in truth squatters living on reservation property, who Henley had invited beginning in 1856.²²⁹ For the Yuki, in less than a decade, they had become outsiders and a minority population in their own country, on their ancestral lands, being overwhelmed and outnumbered by whites and non-Yuki Native peoples incarcerated on the reservation in Round Valley. Such was legacy and influence of Serranus C. Hastings, Thomas J. Henley, H. L. Hall, and the white settlers of these three valleys.

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STATE ACTIONS

According to Peter Burnett, first American governor of California, “[A] war of extermination will continue to be waged between the two races until the Indian race becomes extinct, must be expected; while we cannot anticipate this result with but painful regret, the inevitable destiny of the race is beyond the power and

²²¹ Deposition of William Frazier.

²²² Deposition of William Frazier.

²²³ Deposition of Jackson Farley.

²²⁴ Deposition of Jackson Farley.

²²⁵ *Lassen Sage Brush*, May 23, 1868.

²²⁶ Deposition of William Frazier.

²²⁷ This conclusion is based on the collective lack of evidence gathered from Farley, Frazier, and the community petitions of the residents of Long Valley.

²²⁸ *Sacramento Daily Union*, July 19, 1862.

²²⁹ William J. Bauer, Jr., “‘We were all like migrant workers here’: Work, Community, and Memory on California’s Round Valley Reservation, 1850-1941 (Chapel Hill: University of North Carolina Press, 2009), 45.

wisdom of man to avert.”²³⁰ As Burnett’s address to the legislature shows, California Indians were abandoned to the whims of American citizens by the state government early on. Burnett’s conviction that the “inevitable destiny” of Indians was extermination was commonplace among Americans in California and the United States. Like thousands of other Americans who had come to California to strike it rich, Burnett believed that God had ordained Indians to die as part of Manifest Destiny. Burnett abandoned any thought of stemming the tide of such extermination because as part of God’s master plan, it was “beyond the power and wisdom of man to avert.”²³¹ Indeed, in the minds of nineteenth-century Americans, to turn away from the marginalization, if not outright destruction of Native Americans, would be to contradict God’s plan. More importantly, in Burnett’s mind, to do other than let this transpire would contradict his constituency’s demands. Such thinking was not unique to Burnett, Hastings, or the citizens of Eden and Round Valleys.

Every governor of California received petitions from local communities during the 1850s and 1860s; the actions of Serranus Hastings and his fellows were not unique.²³² Rather, they were exemplary. Petitions asking that the state do something to curb the Indian problems of their region were widespread, both in terms of geographic origins within the state and over time, with examples extant from over a twenty-plus-year period. In these appeals for executive action and approval, it was never a feature of these petitions for the petitioners to acknowledge their presence on lands held by Indian peoples for millennia as creating these difficulties. Some petitioners asked that the governor make an appeal to the federal government for troops, hoping that pressure from California’s top elected representative would convince the army to take stronger measures against pestiferous Indians. Other petitioners requested deployment of the regular state militia; reminding the governor of his power to do so as the state’s elected commander-in-chief.²³³ But in many cases of requests, local groups of citizens asked that he rather than the governor empower them. Drawing up petitions at town and county meetings, groups of citizens called attention to the threat posed to their lives and property by Indians in their vicinity. As a later investigative committee formed by the state legislature would find while interviewing many of these petitioners, it was really a threat to property rather than lives that drove men to petition the governor.²³⁴ Yet, despite this clearer realization of settlers’ motives, state authorities concurred with settlers’ actions. As most of the men in government in California in its first decade were just like the petitioners—failed gold seekers going in new directions—the petitions found a great deal of sympathy from governors and lawmakers. In fact, the committee did not convene to investigate atrocities against Indians, but rather answer the questions of why efforts to exterminate Indians had cost so much money, and why the federal government had not played a larger, more effective role?

Reporting to their colleagues in the California Senate and Assembly, members of a five-man joint committee auditing the expenses and actions associated with fighting Indians in and around Mendocino County in the late 1850s sought to identify why hundreds of thousands of dollars had to be expended to solve the problems of Indian-white relations.²³⁵ The Majority and Minority Reports issued following the

²³⁰ “Address to the Legislature,” *Journal of the Senate of California*, 3rd Session, 1852, 714. Burnett was not the only governor to say something such as this. Governor John McDougal felt likewise, stating, “[Indian policy] must of necessity be one of extermination of the many tribes.” Governor John McDougal quoted in Ashley Riley Sousa, “‘They will be hunted down and destroyed’: A Comparative Study of Genocide in California and Tasmania,” *Journal of Genocide Research* 6, no. 2 (June 2004): 205.

²³¹ “Address,” *Journal of the Senate*, 714.

²³² Carranco and Beard, *Genocide and Vendetta*, 141. For example, in 1863, Governor Leland Stanford Sr. authorized six volunteer companies in different counties.

²³³ The regular state militia is what one would call the California National Guard, today.

²³⁴ The commission was the Special Joint Committee on the Mendocino War, convened in 1860. Tellingly, it includes no depositions taken from California Indian peoples.

²³⁵ Over one hundred forty years later, the state of California again became interested in investigating the violence of Gold Rush era Indian-white relations. For the investigative report produced for use by the legislature, see: Kimberly Johnston-Dodds, *Early California Laws and Policies Related to California Indians*, CRB-02-014, California Research Bureau of the California State Library, Sacramento, 2002. Scholars often overlook and/or fail to credit

1860 investigation, which took dozens of depositions from Americans in the region, painted a bleak picture of what life had become for Native Americans.²³⁶ Most striking about the reports from both the minority and majority were the open admissions of massacres and other outrages. Americans, including men who were not part of authorized volunteer companies, admitted to slaughtering Indians under oath.²³⁷ Such statements were admissible in court and possibly used to prosecute many of the men who gave depositions admitting to killing non-combatants or killing Indians while not under the authority of the government. Meanwhile, many of the Americans killing Indian peoples legally, under the protection of gubernatorial authorization to form volunteer companies, exhibited a callousness that might have given elected officials pause about further use of volunteer units. Clearly, the volunteers had organized to answer theft of their livestock with murder. The report admitted that judging by the horrific results, “either our government, or our citizens, or both, are to blame.”²³⁸ The majority committee’s report admitted that white settlers had often initiated the hostility with California Indians, but contextualized blame in the grand scheme of American history. “The same relations and condition of things [exist] between white settlers and Indians in Mendocino County,” wrote the majority committee, “as has always been the case from the first settlement of our country to the present time, whether on the frontiers or in the more thickly settled districts, where the Indian has been permitted to inhabit the same country with the white settler.”²³⁹ What might be done by the legislature to change this state of affairs? Little or nothing. In fact, the majority committee believed “history teaches us the inevitable destiny of the red man is total extermination or isolation.”²⁴⁰ Lawmakers, like Governor Burnett, saw the destruction of California Indians as an inevitable component of bringing about Manifest Destiny. The problem was, in the view of the majority committee, that the present was, in part, necessary, but currently inefficient and unnecessarily cruel. They saw the killing of a dying race as something akin to mercy, with the only alternative being relocations to areas barren and remote, prolonging what life remained to the Indian race. The doom of Indians was unavoidable, in their estimation, but this fate should be as painless as possible. And as inexpensive, too.

The committee admitted that settlers had manufactured a costly and unnecessary war in which “a slaughter of beings, who at least possess the human form,” took place in pursuit of their property interests. The citizens used the governor to authorize its conduct. The committee did not fault the governor for his authorization, though, because he had only done what the petitioners wanted.²⁴¹ Indeed, the very exaggerations made by Hastings and his fellow petitioners pointed out to Governor Weller by U.S. Army officers found confirmation in the Majority Report.²⁴² Ironically, much of the blame assigned by the committee shifted to the federal government.

Despite the fact that California Indians had no formal treaty protections under federal law in 1860, the United States had still seen fit to foolishly, in the committee’s estimation, allow Indians to occupy productive land. Naturally, such lands reserved to Indians were attractive to American settlers. When Americans determined to move onto such attractive lands, who or what would stop the settlers? Certainly, elected representatives would build no barriers in a nation driven by settler-colonialism. When Indian

Johnston-Dodd’s report in the historiography of California’s Indian-white relations in the nineteenth century; it should not be so.

²³⁶ “Majority and Minority Reports of the Special Joint Committee on the Mendocino War,” *Appendix to the Journal of the Senate of California*, 11th Session.

²³⁷ Following the issuance of the reports, some California newspapers carried details of the findings and even excerpts of depositions. The most detailed of these appeared in the *Sacramento Daily Union*, April 16, 1860. The state printed only one hundred copies of the report for public distribution. Baumgardner, *Killing for Land*, 184.

²³⁸ “Majority Report,” *Appendix to the Journal of the Senate*, 4.

²³⁹ “Majority Report,” *Appendix to the Journal of the Senate*, 3.

²⁴⁰ “Majority Report,” *Appendix to the Journal of the Senate*, 3.

²⁴¹ “Majority Report,” *Appendix to the Journal of the Senate*, 6.

²⁴² For an example of an army officer refuting settler’s claims prior to Weller’s decision to authorize the Eel River Rangers, see: [Gen. Clarke to Gov. Weller](#), 13 May 1859, Military Department, Office of the Adjutant General, Indian War Papers, 1850-1880, F3753, Record 368, California State Archives, Sacramento.

peoples objected and resisted, the government could not contemplate any other action than to aid its constituency. The results of the aggressive dispossession of Indian peoples by American settlers, according to the majority committee, had produced massive population decline among California Indians. "Within the last four months," wrote the committee, "more Indians have been killed by our people than during the century of Spanish and Mexican domination."²⁴³ One possible solution to preserve the remaining Indians was to press the federal government to remove and concentrate them on land that no white settlers were likely to want. Only about one-fourth of California Indians resided on reservations in 1860; the majority lived among or around white populations predisposed to dispossessing them, if not killing them. The majority committee charged the federal government with neglect and apathy for California Indians, blaming them as the foundation for Indian misery. Yes, American settlers had taken Indian land and killed Native Americans, but the federal government had put Americans in this unavoidably tempting position by not getting all Indians out of white sight.²⁴⁴

Another solution offered by the majority committee seemingly proposed to let matters continue as they did: "The question resolves itself to this: Shall the Indians be exterminated, or shall they be protected."²⁴⁵ The committee, one may note, left utter destruction on the table, available to be continued, by not appending any unequivocal statement calling for the practice to be stopped; in a democracy, the will of the people expressed by their elected representatives might well continue the process of extermination. Not unsurprising given that Indians apparently had "human form" but not humanity, according to the committee's findings. In terms of protecting Indian peoples, the majority committee presented a suggestion that suggested creation of larger reservations. However, their recommendation contradicted their own conclusions, especially given the desire of American settlers for more and more of the best available lands. Describing Round Valley as beautiful and desirable, the majority committee suggested all of the valley as a reservation for Indian peoples, as currently only twenty-five percent of the valley was reserved in the form of Nome Cult Indian Farm.²⁴⁶ Given that depositions taken in the formulation of the report indicated that Americans were already squatting illegally on federal property in the valley, the suggestion seems naïve, if not patently disingenuous. What miracle would be protecting an enlarged reservation in Round Valley from depredations by whites when they were already happening on a smaller reservation there, the committee did not mention.

Ironically, the Minority Report of the joint committee better represented the majority of Americans in California. The Minority Report epitomized the power wielded by individual American citizens in their "wars" with Indians. J.B. Lamar authored the Minority Report. He represented the single, dissenting minority opinion of the committee. Perhaps not surprisingly, Lamar was the representative for Mendocino County to the state assembly. The Minority Report attacked the Majority Report as a misapprehension of all the facts learned through citizen's testimony. Lamar indignantly criticized the majority for calling the war in Mendocino unnecessary.²⁴⁷ In Lamar's view, nothing could be more necessary. Lamar, too, pointed the finger of blame toward the federal government, and only to them. Claiming that the federal troops stationed in the valley proved useless, Lamar argued that such was in keeping with the lessons of history: American troops were always ineffective in dealing with Indians.²⁴⁸ Lamar might have qualified his remark by adding that this ineffectiveness was usually in the face of American settlers being present in such instances, and doing almost everything possible to complicate or destroy the peace that soldiers arranged.

²⁴³ "Majority Report," *Appendix to the Journal of the Senate*, 4.

²⁴⁴ "Majority Report," *Appendix to the Journal of the Senate*, 4-5.

²⁴⁵ "Majority Report," *Appendix to the Journal of the Senate*, 6.

²⁴⁶ Nome Cult Farm was at first a temporary federal Indian reservation in 1856. It later became an official reservation, Round Valley Reservation, by Executive Order in 1870.

²⁴⁷ "Minority Report of the Special Joint Committee on the Mendocino War," *Appendix to the Journal of the Senate of California*, 11th Session, 9.

²⁴⁸ "Minority Report," *Appendix to the Journal of the Senate*, 9-10.

Such was certainly the case in Eden and Round Valleys. Unlike most of the committee, Lamar offered solutions representing the reality of Indian affairs in California.

Lamar believed the way to solve the problem of Indian-white relations was through the adoption by the state of “a general system of peonage or apprenticeship, for the proper disposition and distribution of the Indians by families among responsible citizens. General laws should be passed regulating the relations between master and servant, and providing for punishment of any meddlesome interference on the part of third parties.”²⁴⁹ In essence, Lamar proposed Indian slavery to resolve the difficulties of Indian-white relations. Only the scale of the proposal was surprising, as such a system of slavery disguised as apprenticeship had been operating since 1850 under “An Act for the Government and Protection of Indians.”²⁵⁰ In this manner, Lamar argued, all reservations would soon become vacant, with Indians placed under the care of their individual American masters. Such a measure would also relieve the state of any future financial burdens, as Indian people would be individual servants living in discrete family units, susceptible to the control of the white male heads of household. In other words, Lamar proposed Indian slavery as the pragmatic, permanent, and inexpensive solution.

Money was always a key issue as California lawmakers considered what course of action to take regarding Indian affairs in the nineteenth century. As the legislature examined the “Indian wars” of the 1850s, this was particularly true. The state government had spent millions of dollars in the 1850s paying the expenses and wages of volunteer companies. By January 1, 1854, the state of California had already spent \$924,259 on Indian affairs. The federal government reimbursed some of the money, but much remained unpaid. The state resorted to the issue of war bonds to pay for the costs of campaigns against the California Indians.²⁵¹ For many observers, far removed from scenes of “wars” between whites and Indians, the massive transfer of land into American hands was not enough. Legislators, however, had little hope of recovering the state monies spent fighting and exterminating Indians in a timely fashion through federal reimbursement.²⁵² Inefficient and unreliable funding were the rule of state-federal financial relations in the early history of the state.

The state legislature also called on federal agents to modify federal Indian policy in California. In a joint resolution in 1858, the state government called on the Superintendent of Indian Affairs for California at the time to remove all Indians from any county where the board of supervisors of the county requested such.²⁵³ The superintendent at the time, Thomas J. Henley, already found it impossible to keep Indians on underfunded reservations. Henley did not have the ability to comply, and lacked the authority even had he been so inclined. Meanwhile, based on the circumstances of Indian-white relations in California one cannot imagine that every county in California in 1858 *not* making this request. In 1860, the legislature proposed something even more radical, and deadly. The California Assembly and Senate, by joint resolution, called upon the federal government to relinquish control of all Indian affairs to the state of California after ceding to the state all reservation lands. Moreover, since American settlers were living on reservation lands in Round Valley, the resolution by the state called upon the federal government to pay settlers for the land and improvements they had made. They made no mention that these settlers were illegally squatting on federal

²⁴⁹ “Minority Report,” *Appendix to the Journal of the Senate*, 11.

²⁵⁰ “An Act for the Government and Protection of Indians,” *California Statutes*, 1850, ch. 133. Hereafter referred to as Chapter 133.

²⁵¹ “Report of the Commissioners of California War Debt,” *Appendix to the Journal of the Senate*, 11th Session, 3. Purchasers of Indian War Bonds funded the conflict. Investors collected interest on the investment at a rate of seven percent for those willing to invest between \$100 and \$1,000, or, for wealthier investors, the state offered an issue of twelve percent bonds for \$1,000 investments.²⁵¹

²⁵² The state legislature made a joint resolution calling on the federal government to repay the expenses incurred fighting Indians. See “In relation to the War Debt,” Joint Resolution of the California Senate and Assembly, approved 01 March 1853, *California Statutes*, 1853.

²⁵³ “Concurrent Resolution relative to the Removal of Indians,” Number 24, passed 19 April 1858, *California Statutes*, 1858.

property.²⁵⁴ The federal government did not acquiesce. Another suggestion appeared in the form of a joint resolution transmitted to Congress by the state legislature in 1862. The California Senate and Assembly asked that all “undomesticated Indians” be removed from the presence of whites, so as to be “protected from molestation on the part of the whites.” These relocations would be permanent.²⁵⁵ Again, federal authorities demurred. Judging by the language contained in the resolution, the legislature clearly believed that Indians not under American control as laborers would inevitably fall prey to whites; indeed, it was a certainty given the relentless murders, abductions, and dispossession of California Indians, even as these votes occurred and the resulting resolutions delivered to Washington. Likewise, the state legislature had been funding the “molestation on the part of whites” for many years, and knew very well the hypocrisy of claims that removal would avert trouble between Native Americans and white Americans in the long-term.

In the short term, California lawmakers sometimes anticipated potential problems with revenue, as evidenced in other measures passed into law. The original law governing the formation of militia companies anticipated the unwillingness of federal forces to respond in the manner citizens desired, the financial impossibility of maintaining a standing state militia for extended periods, and the tradition of opposition by American citizens to standing armies still present in the nineteenth-century American psyche. Instead, a well-defined volunteer company law served to codify how local communities could petition the state governor to legally form temporary volunteer companies to deal with emergencies requiring an armed response. The system’s design tried to avoid regular costs associated with maintaining permanent forces. The necessity of community meetings, petitions for forming a company, and the election of officers, among other matters, were spelled out plainly.²⁵⁶ American citizens were well acquainted with the law and how to manipulate it in pursuit of exterminating or driving off Indian peoples in their locales. Other laws protected the financial interests of individuals, at the expense of the state. They enacted laws stipulating rates of pay, reimbursement for expenses, and per diem. This is not to suggest Americans felt these wages were enough, even though many were also engaged in securing their own interests by eliminating or relocating Native Americans while serving in a volunteer company. Many demanded high wages to kill Indians. In 1850, for example, with gold still plentiful in the Mother Lode region, men demanded higher compensation because of the gold they expected to miss out on while campaigning against Indians. Men expected, according to a report by state militia Brigadier General Winn to Governor Peter Burnett, \$8 per day for service as a private, and officers expected at least \$16 in return. This wage was in addition to the food that each man expected--another \$2 per man. Given this system, costs could mount fast. Money, probably more than inhumanity, may have caused Burnett to conclude that “we cannot anticipate this result with but painful regret, the inevitable destiny of the race is beyond the power and wisdom of man to avert.”²⁵⁷ Indeed, to keep costs down, militia and volunteer companies needed to kill with alacrity. Communications from governors reminded companies and communities to keep costs down and get out of the field as fast as possible. A second cost cutting measure adopted by the state was equally as bad for Native people. The number of volunteers in a company, suggested General Winn of the state militia, should be the bare minimum of necessity. Sending smaller, but still well-armed forces to “protect” against Indians only ensured that outnumbered American forces would use an ambush and shoot-first policies rather than risk facing, head on, superior Native American numbers. Winn believed that until the federal government could supply enough forces to deal with Indians, the state should fund troops to fight the Indians. Burnett

²⁵⁴ “Concurrent Resolution Relative to the Indian Reserves in this State,” Number 37, passed 16 April 1860, *California Statutes*, 1860.

²⁵⁵ “Concurrent Resolution,” Number 13, adopted 28 March 1862, *California Statutes*, 1862.

²⁵⁶ “An Act concerning Volunteer or Independent Companies,” *California Statutes*, 1850, ch. 54. Even the rate at which the government would compensate volunteers for wear and tear on their horses was legally defined. A man serving as a private and supplying his own horse, for example, would make \$5 per day in pay, \$1 per day for the horse, plus have their food, ammunition, and other equipment either supplied to them or reimbursed, if they obtained these things themselves. Officers, quartermasters, and noncommissioned officers could make double or triple what a private made.²⁵⁶

²⁵⁷ “Address to the Legislature,” *Journal of the Senate of California*, 3rd Session, 1852, 714.

approved the reductions suggested by Winn, setting a standard in terms of force size and the demand for alacrity in bringing a conclusion to Indian “difficulties,” wherever and whenever encountered. Burnett’s successors would emulate his precedent, especially the demand to perform in a cheap and timely manner.

This course of events—community and individual petitions to the governor, legal authorization and payment of volunteer or militia companies, and communications of the governor to the legislature seeking financial redress for volunteers first by the state and then by the federal government—became standard operating procedure for the state. Laws, especially the Militia Law and its later amendments, made it easy for an American community to implement the correct steps to legally allow them to exterminate Indians directly, then receive remuneration. American citizens were plainly aware of this, and lawmakers and the governor could do little but require their constituents to adhere to the steps prescribed by law. Influential citizens such as Serranus Hastings were clearly aware of their rights and how to engage the law to support personal interests, too.

In Hastings’s petitions to the governor, for instance, he lambasted the weak efforts of federal forces in the region and their failure to stop Indians from thieving. Hastings was so agitated that he claimed the army was in league with the Indians, representing not American interests but Indian interests. Hastings argued that he had paid his taxes to the state, and as such wanted his due.²⁵⁸ Hastings demanded that the system function as any American might expect: the government existed to protect its citizens and their property, and not that of non-white, noncitizens that had neither the vote nor any other legal rights in the state—as it was for California Indians. Hastings and other Americans demanded that the governor order the formation of volunteer companies in the area to solve the problem of Indian depredations in the region.²⁵⁹ Hastings, then, was not exceptional in his calls for action, only unique in his level of influence supporting such demands at the state level. And in their positive responses to constituents’ demands, governors were not unique, either. The state legislature played a role as well.

Chapter 133 of state law, “An Act for the Government and Protection of Indians,” passed by the state legislature in its first legislative session was the cornerstone of the legal murder and kidnapping of Indians in California.²⁶⁰ Implemented in 1850, Chapter 133 made crimes like the murder and enslavement of Native Americans essentially legal. The process of passing Chapter 133 began the prior year, 1849, following ratification of the California’s first constitution. The state constitution began a long tradition in California: the marginalization, persecution, and prosecution of non-white ethnicities by legal means.²⁶¹ California Indians were only first in a long line of Hispanic, Asian, and African ethnic groups to find white Americans in California willing to legally disenfranchise them or worse.²⁶² Building upon the inequities codified by the constitution—only white male citizens could vote—the legislature built up additional walls against Indian and other peoples interfering with white American domination of California. Using this constitutional foundation, American lawmakers added numerous laws to exclude or control Native Americans.

Laws passed in the legislative session of 1850 also dealt with Indian peoples prior to the passage of the omnibus Chapter 133. Perhaps most important among these was California’s criminal code. The code prevented Indians from serving as witnesses in California courts against whites, judged as incompetent because of their race: “No black or mulatto person, or Indian, shall be permitted to give evidence in favor

²⁵⁸ State and county taxes during this era included personal property. Cattle, horses, and other stock were part of the valuation of individual tax liability. Animals taken by Native Americans in raids were assets Americans were paying property taxes on each year. Undoubtedly, this forced the issue of taxation and representation to the forefront of the minds of aggrieved parties suffering stock losses. See “An Act prescribing the Mode of Assessing and Collecting Public Revenue,” *California Statutes*, 1850, ch. 52.

²⁵⁹ Deposition of S. C. Hastings.

²⁶⁰ *California Statutes*, 1850, ch. 133.

²⁶¹ The state’s second (current) constitution exhibited these traits, as well, although amendments and court decisions in the years since its 1879 ratification have addressed many of these injustices.

²⁶² Robert F. Heizer and Alan J. Almquist, *The Other Californians: Prejudice and Discrimination under Spain, Mexico, and the United States to 1920* (Berkeley: University of California Press, 1971), 195-203.

of, or against, any white person.”²⁶³ Because of this law, whites could kill with impunity, if no white witnesses observed their actions. Evidence, however, shows that even in cases where whites did witness criminal offenses against Indian peoples, few ever came forward to serve as an acceptable witness on a Native person’s behalf. Under California law Native American existence was closely regulated to both assuage white fears of Indians and harness Indian labor in an otherwise labor-starved California; indeed, it was the later that concerned most Americans, rather than the former.

In the early years of statehood, finding people willing to labor away from the gold fields in California was difficult and costly. Many demanded high wages to forgo the riches of the Gold Rush. Chapter 133 was key in feeding labor-hungry California with low-cost Indian laborers. It codified the relationship between labor and punishment.²⁶⁴ Chapter 133 allowed for justices of the peace to decide all matters of law or justice pertaining to Indians; thus, circumventing the normal legal systems in place for whites and non-Indians. Locally appointed justices of the peace were responsible for maintaining the many remaining provisions of the Act and communicating to local Indians their responsibilities under the law, particularly those sections dealing with labor. In terms of the correlation of labor and the justice system, the most important and insidious provision of Chapter 133 was Section 20. The section allowed justices of the peace, mayors, and town recorders to render judgments in matters of Indian vagrancy. Given that records indicate that Walter Jarboe, infamous leader of the Eel River Rangers, was a justice of the peace, it is unsurprising that so many Indians encountered legal injustice.²⁶⁵ Chapter 133 required that Native Americans maintain an “honest calling” or otherwise face criminal penalties.²⁶⁶ Of course an “honest calling” included only work in a manner and mode acceptable to white Americans. Standards such as walking on the street with no money in one’s pockets were enough to be arrested and taken before a justice of the peace. Indians found without employment or money were brought before one of the aforementioned authorities and, if they could not pay the fines imposed, publicly auctioned off for up to a four-month term.²⁶⁷ The money received at auction, less the fine and “expense for clothing for said Indian,” was either to be placed in a general-purpose Indian fund or paid to the family of the indentured Indian. The previously mentioned auctions held in Los Angeles were not the only Indian slave auctions, either. Communities in the northern half of the state also had similar institutions, as made plain in the press.²⁶⁸

The most sinister component of Chapter 133 was the indenture of children permitted under Section 3 of the law. Persons wishing to obtain the services of an Indian minor as an apprentice had to meet certain requirements:

Any person having or hereafter obtaining a minor Indian, male or female, from the parents or relations of such Indian minor, and wishing to keep it . . . shall go before a Justice of the Peace in his Township, with the parents or friends of the child, and if the Justice of the Peace becomes satisfied that no compulsory means have been used to obtain the child from its parents or friends, shall enter on record, in a book kept for that purpose, the sex and probable age of the child, and shall give to such person a certificate, authorizing him or her to have the care, custody, control and earnings of such minor, until he or she obtain the age of majority. Every male Indian shall be deemed to have attained his majority at eighteen, and the female at fifteen years.²⁶⁹

²⁶³ “An Act Concerning Crimes and Punishments,” *California Statutes*, 1850, ch. 99, sec. 14.

²⁶⁴ *California Statutes*, 1850, Ch. 133.

²⁶⁵ William B. Secrest, “Jarboe’s War,” *Californians* 6, no. 6 (November/December 1988): 22.

²⁶⁶ *California Statutes*, 1850, Ch. 133, sec. 20.

²⁶⁷ Longer terms could be imposed for crimes judged worse than vagrancy.

²⁶⁸ *Marysville Weekly Express*, March 5, 1859.

²⁶⁹ Ch. 133, Section 3.

Since laws prohibited Indians from testifying against whites under California law, the chances of refuting such indentures once made were nil. No Indian person could charge a white with kidnapping or any other crime, unless they had a white sponsor and witness to bring charges on their behalf. This study uncovered no evidence of such assistance. One notes that the vague appellation of “friends of the child” can lead one to deduce what nefarious purposes that unscrupulous people might have used this legal leeway. Indeed, a thriving trade in Indian children developed between southern and northern California that supplied child laborers during the Gold Rush era in the north.²⁷⁰

Whites in the north were anxious to harness Indian laborers under the guise of apprenticeship and whites in the south were seemingly apathetic about the Native American children kidnapped and sent north to work. The combination of white indifference and legal ambiguity led to few instances of legal action against this slave trade.²⁷¹ The government and the public were aware of this, as newspapers often published stories about Indian kidnapping. The *Humboldt Times* described the dilemma faced by Superintendent Thomas J. Henley. Charged with managing Indian affairs in California, Henley fought a losing battle against his neighbors in northern California. Indians were bringing “from \$50 to \$250 each” in the region, and Henley was at a loss to stop the practice.²⁷² What offended Henley, though, was not Indians living in white households all over California, it was that men beyond his control were profiting from it. Henley, himself, allowed the apprenticeship of Indians from his reservations. Henley had many Indians working for him, as did the men he employed. One of his Indian agents, Vincent Geiger, had *eighty* Indians legally apprenticed to him, who he promptly took with him to Washoe, possibly to engage in mining operations, following his dismissal as an agent.²⁷³ And all of the settlers in Round Valley, about half of whom were also reservation employees, had Indian workers—slaves, really—taken from the reservation or purchased from kidnappers or taken in raids, as well.²⁷⁴ Serranus Hastings had three Indian “servants” working in his household.²⁷⁵

Meanwhile, men engaged in the illicit trade of Indians made future relations with Indian peoples difficult, because typically the Indian apprentices were children whose parents were killed or injured by the slave traffickers.²⁷⁶ Similarly troubling, many volunteer companies openly reported to state and federal authorities that their Indian prisoners were handed over to American citizens who wanted apprentices.²⁷⁷ In fact, evidence existed that some volunteer companies were out as much to capture Indians for apprenticeship as they were to seek revenge. Harmon “Hi” Good, for instance, led an unauthorized company of volunteers in northern California. In a letter to Governor Leland Stanford, Good wrote openly of the actions of his company, even though Stanford had not approved its formation. Good, however, seemed to believe that since the community sanctioned their mission, that was approval enough.²⁷⁸ Obviously men like Good feared no retribution by the state, although he certainly feared Native American retribution. The ill will and desire to seek vengeance for their children created by men like Good led Native people to both resist violently and to disbelieve any white man claiming to offer aid. Combined with the practices of Indian kidnapping and enslavement, Henley found it difficult to convince Native Americans to

²⁷⁰ Rawls, *Indians of California*, 94-106.

²⁷¹ Rawls, *Indians of California*, 103.

²⁷² *Humboldt Times*, May 5, 1855.

²⁷³ *San Francisco Bulletin*, March 2, 1861. Emphasis mine.

²⁷⁴ Lynn, *Stolen Valley*, 19.

²⁷⁵ Baumgardner, *Killing for Land*, 89. Author’s note: attempts to learn the names and origins of these “servants” have so far proven futile. This is not surprising. Despite Indian apprenticeship/slavery being ubiquitous in this period, records were typically not kept. For a sample register of Indian indentures of apprenticeship, see: Michael F. Magliari, “Free State Slavery: Bound Indian Labor and Slave Trafficking in California’s Sacramento Valley, 1850-1864,” *Pacific Historical Review* 81, no. 2 (May 2012): 155-192.

²⁷⁶ *Sacramento Daily Union*, May 8, 1857; *Sacramento Union*, March 13, 1863.

²⁷⁷ *Sacramento Daily Union*, May 20, 1857.

²⁷⁸ Harmon A. Good to Governor Leland Stanford, 08 August 1862, F3753, Record 608, California State Archives, Sacramento, Indian War Papers.

come onto reservations. Many Native American parents told Henley they thought the reservations were a “trick to deprive them of their children.”²⁷⁹ Behind the problem, at its very root, was that there was a market for Indian slaves.

The reason why men like Thomas J. Henley and other Indian agents found the problem of Indian kidnapping and enslavement so prevalent was a function of demand. Americans wanted Indian children to work in their homes and ranches, and found a ready supply as slavers and volunteer companies brought Indian children into communities. Once situated among Indian communities in the late 1840s and 1850s, by the 1860s, the white citizenry had killed or driven off local Indian peoples. They were now well away from the shrinking Indian population of the region, who sheltered in the local mountains for safety. Thus, when slavers called, buyers abounded in communities throughout California. This continued into the early 1860s. In 1860 an amendment to Chapter 133 passed that not only expanded the scope of the apprenticeship laws but also demonstrated the state legislature’s willingness to openly condone and perpetuate Indian slavery. Despite the common knowledge of the abuses and outrages linked with the apprenticeship system circulating in the press and in testimonies taken by the legislature, itself, the legislature passed an amendment expanding the age limits of apprenticeship to include adults. The lengths of indenture also increased. Children apprenticed under fourteen could be held until twenty-five (for females twenty-one) and children over fourteen but under twenty could be held until thirty (for females twenty-five). Adults—those over twenty—could be held for ten years from the date of apprenticeship.²⁸⁰ Meanwhile, unlike eighteenth-century Anglo indenture laws that required money and/or clothing to be given to the freed servant at the end of term, little beyond keeping the Indian alive was required under the terms of indenture in California. Anthropologist Robert Heizer estimates that in the thirteen years the apprenticeship section of Chapter 133 operated, ten thousand Native Americans—including men, women, and children taken from Eden and Round Valleys—were enslaved through this system.²⁸¹ The willingness of Americans in California to engage in a form of slavery and slave trade stemmed from an extreme labor shortage in the late 1840s and 1850s as available labor from around the state became concentrated in the gold fields and their promise of instant wealth. When Serranus Hastings advocated for the formation of volunteer companies, he was advocating for an arrangement that fed this system its necessary bodies.

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FEDERAL ACTIONS

Forces of the United States seized California on July 7, 1846, as part of the war with Mexico. Federal military governors went on to administer California until December 20, 1849, when the military governor surrendered power to an elected governor and California began its existence as an unadmitted American state.²⁸² As this transition progressed following admission to statehood on September 9, 1850, most Americans wanted Indians out of California. And while a state government responsive to the wishes of settlers and miners was a key first step, it was the federal government seen as playing the vital role in California. The federal government was by law the authority responsible for dealing with Indians, as people of sovereign nations in terms of diplomacy and treatymaking. During the next two decades, though, the federal government would prove reluctant to contradict the will of white American citizens living in California in their campaigns to enslave or exterminate Indians.

²⁷⁹ *Humboldt Times*, May 5, 1855.

²⁸⁰ *California Statutes*, 1860, ch. 231.

²⁸¹ Robert F. Heizer, *The Destruction of California Indians* (Lincoln: University of Nebraska Press, 1993), 219.

²⁸² The military governors of California, however, left much of the governing to local *alcaldes*, some left over from the Mexican era as well as ones newly appointed. For a full discussion of the period, see: Theodore Grivas, *Military Governments in California, 1846-1850* (Glendale, California: Arthur H. Clarke Company, 1963).

The arbiter of affairs between the United States, represented by its agents and army officers, and Native Americans were treaties. Concluded on a nation to nation basis, treaties inherently recognized the limited sovereignty of Native American nations.²⁸³ Initially, California was no different than the rest of the United States. The federal government chose three treaty commissioners in 1850, none of whom had any knowledge of the Native Americans of California. The task of the commissioners, however ignorant of California Indians, was to conclude treaties that would keep Indians and Americans apart, in hopes of avoiding in California the failures experienced in every other treaty made by the United States with Indians. The commissioners needed to make treaties with Indians that set aside federally-protected reserves of land for them. Lands not reserved would have Indian claims to them extinguished, and made public lands.²⁸⁴ The arrangement was as much for the protection of Americans as it was Indians. Americans had a long history of violating the treaties their government made with Native Americans. When settlers came on to Indian lands protected by treaties or abused, raped, or killed American Indians, Native Americans found themselves in a nearly hopeless position. The United States government and its military forces were never willing to exact harsh retribution on American citizens who violated the sovereignty of Native nations or the rights of their peoples. Indian peoples had to either accept these violations, renegotiate, or fight the intruders themselves, which always produced an armed response by American forces to protect citizens. It was this repetitive scenario that produced what scholar Vine Deloria called the “trail of broken treaties.”²⁸⁵ Following American illegal incursions and subsequent Native American armed responses or diplomatic overtures, the parties concluded new treaties, Indian peoples relocated, and the cycle begun again. In California, this was not the case because of the inability to move Native Americans any further west.

As the three commissioners entered California in late 1850, and began negotiations in early 1851, then, the situation was already critical. The failure of treaties would be particularly disastrous given the lack of the safety valve available to the east of the Sierra Nevada. Unfortunately, the treaties were doomed from the start of negotiations. In addition to the widespread belief by American citizens that all land in California already belonged to them by right of conquest, reinforced by the provisions of the Treaty of Guadalupe Hidalgo, several factors mitigated against a lasting peace through the treaty-making process, including communications and the acceptability of the final arrangements by all parties concerned.²⁸⁶ The commissioners spoke no Native languages. Communication was never direct and always translated. Such translations were imperfect for two reasons. First, it was not always possible to find an interpreter who spoke the language of the Native delegates at the conferences. Oftentimes, the translator spoke Spanish to Native people who spoke Spanish and acted as intermediaries, when possible. Second, and more importantly, the concepts discussed were completely alien to many of the attendees. Ideas of land cessions, the primacy of American sovereignty, and other stipulations contained in the treaties were concepts not

²⁸³ Legal interpretations by U.S. Courts and the laws and policies of the United States made Native American sovereignty something less than what one might believe sovereign to mean. Over time, the limits of sovereignty shifted, as well. Since the Supreme Court decision in *Cherokee Nation v. Georgia* (1831) Indian nations have been categorized as “domestic dependent nations” with sovereignty secondary to that of the United States. For a full discussion, see: David E. Wilkins, *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice* (Austin: University of Texas Press, 1999).

²⁸⁴ Under the Treaty of Guadalupe Hidalgo, all lands not the legal property of Mexican land grant holders became the property of the United States. The California Land Act of 1851 regulated the transfer of titles from one government to the next. For more on this tendentious process, see: David Hornbeck, “The Patenting of California’s Private Land Claims, 1851-1885,” *Geographical Review* 69, no. 4 (October 1979): 434-448.

²⁸⁵ Vine Deloria, Jr., *Behind the Trail of Broken Treaties: An Indian Declaration of Independence* (Austin: University of Texas Press, 1974).

²⁸⁶ Durwood Ball, “By Right of Conquest: Military Government in New Mexico and California, 1846-1851,” *Journal of the West* 41, no. 3 (Summer 2002): 8-16.

contained within the realm of California Indian cultures.²⁸⁷ Indeed, words to express such concepts did not necessarily exist. Even if one was to assume that everything that transpired as fully understood by both sides, it would be a mistake to believe that the treaties began their official lives as acceptable to either side. The commissioners knew of these problems, but given the public pressure to conclude agreements and move forward with the transition to American land ownership already progressing unabated, the commissioners had little incentive to do otherwise.

The greatest problem with the treaties did not come from the Indigenous peoples the agreements claimed to represent, but from the American side. The United States Senate, despite having requested President Millard Fillmore to appoint and dispatch the treaty commissioners, rejected the treaties outright. Senator John B. Weller, later governor of California, was one of California's two U.S. Senators when the treaties came up for ratification in July of 1852. Even though California's representatives to the Senate two years before, William Gwin and John C. Frémont, called for the creation of treaties with Indian tribes, California's senators in the summer of 1852 were vehemently against ratification. This was in keeping with the wishes of California's state legislature. The California Senate and Assembly met in committee, voted a resolution against ratification, and communicated the unacceptability of the treaties to Senators Weller and Gwin.²⁸⁸ Weller believed that his duty to his constituency—white, male American citizens—precluded him from supporting ratification of the treaties, despite the good faith negotiations carried on by the United States and the sacrifices that the leadership of Native American groups had been willing to make to secure a home for their peoples for generations to come. Weller, though, believed that to go ahead with the ratification was foolish and shortsighted; Americans would never abide the by the treaties, especially as they did not support them. Senator Weller was their tool, wielded to express their desires, not his own or the treaty commissioners.

Addressing his colleagues, Weller argued against ratification saying that no white man would ever respect them, especially if whites believed there was gold present on these lands.²⁸⁹ Weller, like many of his colleagues, agreed with Americans in California. The treaties were too generous. The treaties focused on securing territory and providing material, vocational, and financial assistance. The cost of maintaining the treaties would require millions of dollars.²⁹⁰ The commissioners had foolishly allowed approximately 7 percent of all the land in California to remain legally occupied by Indians. In the nineteenth century, the federal government derived revenue from, among other things, land sales. Having no income tax, the only way the federal government received a taste of the California Gold Rush was through the sale of public lands bought with gold.²⁹¹ Millions of acres left in possession of Indians could not generate revenue. Gold, Weller had noted, possibly existed on these un-surveyed lands. As had happened to the Cherokee in Georgia, even when the law was on the side of Native Americans overrun by gold seekers, enforcement was unlikely when American interests were set against Indian welfare. Weller believed that the government ought not to put itself in conflict with the interests of those who had chosen them to represent their interests in government. Besides, few Americans would lift a hand against another American in preference of an Indian.

The ultimate arbiter of the fate of the eighteen treaties was divorced from consideration of California Indian peoples. Fellow California Senator William Gwin joined Weller in condemnation of the treaties, calling for a speedy rejection because many of the Indians had already moved on to reservations guaranteed by as-yet unratified treaties and were now consuming government-supplied food and becoming

²⁸⁷ Robert F. Heizer, ed., *The Eighteen Unratified Treaties of 1851-1852 between the California Indians and the United States Government* (Berkeley: Archaeological Research Facility of the Department of Anthropology, 1972), 3.

²⁸⁸ Chad L. Hoopes, *Domesticate or Exterminate: California Indian Treaties Unratified and Made Secret in 1852* (San Francisco: Redwood Coast Publications, 1975), 90-91, 93.

²⁸⁹ Congressional Globe, 32nd Congress, First Session, 213.

²⁹⁰ Hoopes, *Domesticate or Exterminate*, 65-66.

²⁹¹ Ball, "By Right of Conquest," 12.

accustomed to their new homes.²⁹² Ultimately, the Senate rejected all eighteen treaties. Following the vote, the Senate ordered an injunction of secrecy on the treaties. The treaties lay hidden from public view until 1905, when hearings on Indian land claims brought them out again. That day in 1905 was the day when the descendants of the treaties' signatories found out that the United States had refused to approve them. When the Senate rejected the treaties, new negotiations did not transpire. Senator William King argued that new negotiations were pointless because the old negotiations were unnecessary in the first place. The United States had already received title to all Indian lands by virtue of the Treaty of Guadalupe Hidalgo.²⁹³ Indian peoples acted in good faith, moving on to reserved portions of land or waiting to be moved when the time came, not knowing that the United States no longer believed they had any binding agreement in place.²⁹⁴ Rather, the United States took weak steps toward cobbling together a makeshift strategy for administrating Indian affairs in California.

At the same time, implicit in the treaty negotiations with California Indians was the belief that Indians in California—as elsewhere in the United States—were not American citizens. According to the terms of the Treaty of Guadalupe Hidalgo, citizens of the Republic of Mexico living in the Mexican Cession became U.S. citizens unless they chose to retain Mexican citizenship. The United States and its representatives chose to ignore this portion of the treaty. In Mexico, Indians were citizens and could cast votes; in California, under Mexican rule, this had been the law, although not the practice. Most important, whether voters or not, Indians in California and Mexico were to receive the full protection of the law as citizens. Few Indigenous peoples benefitted from the rights and privileges of Mexican citizenship in California, however. In the transition to U.S. statehood, California state law excluded Indians from the benefits of citizenship based on the idea that they had not been citizens of Mexico. California practice rather than Mexican law was the foundation of the exclusion. Former *Californios*, accepting U.S. citizenship and serving in the constitutional convention and later as legislators, encouraged this willful ignorance. As large landowners, dependent of Native Americans populating portions of their grants, there was great potential for land loss to Indians imbued with all the rights and protections of citizenship. California Indians, then, assumed the same status in terms of citizenship as Indians outside of California, who were not usually U.S. citizens.²⁹⁵

The means the United States proposed for controlling Indian peoples in the absence of treaties was through executive action. The Interior Department appointed a superintendent for Indian affairs for California, tasked with residing in California and acting as the arbiter of Indian-white relations in the state. The superintendent would help identify regional Indian agents and subagents and together, with assistance from the United States Army, run reservations created by executive order. These reserves were not to be the property of Native Americans, but rather federal property housing Indian internees. These reservations, created by an executive order in 1853, bore only slight resemblance to the reservations of the 1870s and beyond. Executive order reservations in California sought to remove Indian populations from interaction with whites to protect the Indians. Unlike at some other reservations in the United States, they paid little attention to education, vocational training, Christianization, or any of the other commonplace assimilationist measures imposed at later reservations. Instead, these reservations concentrated Native peoples in large numbers for efficient surveillance at minimal expense.²⁹⁶

The case of Thomas J. Henley and the reservations of the Round Valley region demonstrated how federal apathy allowed citizens and officials of California to organize extermination campaigns against

²⁹² Hoopes, *Domesticate or Exterminate*, 105-106.

²⁹³ Hoopes, *Domesticate or Exterminate*, 106-107.

²⁹⁴ Some Indian people were able to remain in place for extended periods of time because until land was surveyed and put up for sale by the federal government, Indian people were not required to move.

²⁹⁵ Michael T. Smith, "The History of Indian Citizenship," *Great Plains Journal* 10, no. 1 (Fall 1970): 25-35. Not until 1924 were all Native Americans residing in the United States granted citizenship. Before this, there had been only sporadic cases.

²⁹⁶ Hoopes, *Domesticate or Exterminate*, 109-110.

California Indians. Under Henley, by 1858, seven reservations were operating. Henley reported them as smashing successes, and many area newspapers concurred. The positive reports by Henley and the approval of the press did not prevent the federal government from sending agents to investigate the validity of Henley's claims. These investigations revealed the reality obfuscated by Henley's reports.

Unbeknownst to his superiors and aided by the activities of the Eel River Rangers, Henley was using his position and personal and political connections with men like Serranus Hastings, to build himself a small empire using government funds and Indian slave labor. In 1856, Henley had Simmon Storms establish the Nome Cult Indian Farm in Round Valley. While Henley would claim all of the valley for the reservation by 1858, he invited friends to settle in valley, too, creating preemptive claims that would later allow squatters to gouge the government for improvements made on the land. Henley and his family settled in the valley as well. Henley and his reservation employees, who comprised about half of the settlers squatting in Round Valley, used lumber and other materials earmarked for support of Indian housing and welfare to build homes, barns, fences, and other structures—including a sawmill and general store. The value of misappropriated materials used to build agent Simmon P. Storms's home, for example, amounted to \$5,000. They also used the Indians housed on the reservation as slave labor to create and maintain their homes, farms, and ranches. In fact, some of the ranches had herds of cattle meant to feed the Indian internees on the reservation. Purposely left unbranded, Henley and his fellow squatters appropriated the cattle, as they did with other reservation assets earmarked for the benefit of the Native internees. "Thus," according to historians Estle Beard and Lynwood Carranco, "the reservation acted as a subsidy to white settlement."²⁹⁷ Since the valley was federal property as part of an Indian reserve, all save one of the settlers were essentially squatters.²⁹⁸ By 1858, hundreds of Yuki, plus hundreds of other Native internees, were on the reservation, which had fast become a place of starvation, disease, and enslavement. Some of these had come to the reservation as prisoners of the Eel River Rangers and other authorized and unauthorized volunteer companies, while others had come in on their own out of fear of murder, if they did not. In this way, Henley's interests and Hastings's interests were in simpatico—Hastings wanting the Indians out of Eden Valley to protect his interests, and Henley eager to house them in Round Valley to enhance his interests, as well. Indeed, Henley supported and signed the April petitions to the governor to raise the company that became known as the Eel River Rangers.²⁹⁹ Henley's activities, however, did not remain unknown to the outside world for long.

In the same year, 1858, Godard Bailey visited the reservations in the Sacramento Valley to follow up on the initial investigations conducted by another federal agent, John Ross Browne. Bailey found that Henley's reports were gross overstatements of the level of success. Bailey called the reserves failures, reporting that while Indians did indeed live there, they were few and living in squalor. At best the reserves were panaceas, which provided no real relief and no hope for the future. Bailey found that Browne's chain of reports to the Commissioner of Indian Affairs in Washington, D.C., had been accurate. Browne's earlier reports had described the corruption apparent on the reservations he visited and the utter waste of federal funds. He noted the shady dealings of officials, including Henley. In one telling statement, Browne noted that private enterprises by the officials were sited on the reservations and seemed to make use of Indian labor, federal funds, and land set aside for the care of Native Americans on the reservation.³⁰⁰ Timber from

²⁹⁷ Miller, "The Yuki," 92-93; Carranco and Beard, *Genocide and Vendetta*, 54-65, 70-72. For more on California land claims, preemption, and squatters, see: David Hornbeck, "The Patenting of California's Private Land Claims, 1851-1885," *Geographical Review* 69, no. 4 (October 1979): 434-448; Donald J. Pisani, "Squatter Law in California, 1850-1858," *Western Historical Quarterly* 25, no. 3 (Autumn 1994): 277-310; and Robinson, *Land in California*, 163-175.

²⁹⁸ One settler had already been in Round Valley when Storms lay claim on Henley's orders, and so had some weight to their claim—although it was un-surveyed public land.

²⁹⁹ Miller, "The Yuki," 94-95; Carranco and Beard, *Genocide and Vendetta*, 84.

³⁰⁰ John Ross Browne to Commissioner of Indian Affairs, 19 April 1858, M234, Roll 36, ser. no. 33-46, Letters Received by the California Superintendency, National Archives and Records Administration, Pacific Branch, San Bruno, California.

federal land was being harvested without a share being afforded to the government or the Indians working the sawmill; indeed, the mill had been built at the government's expense for private profit. Making matters worse, the mill's discharges were destroying the fisheries Native people depended upon. Much of this, Browne charged, were for the profits of Henley and other whites living on the reservation.

Indeed, common to his many reports were charges that the reservations were serving the interests of white settlers and reservation employees, the latter being downright corrupt in addition to their ineptitude in dealing with Native people. Browne went so far as to tell Henley outright of his conclusions, giving him a written copy of the charges. Henley responded by circumventing Browne, sending evidence of his own directly to Washington to refute the claims. Browne also related the attitudes of the local white settlers toward Indians, clearly describing them as having "repeatedly avowed their intention to exterminate them if ever they were let loose [from the reservation] . . . again."³⁰¹ In Washington, officials likely were unsurprised by such attitudes among white Californians in the 1850s, as some citizens petitioned the federal government directly, making plain such views in letters and petitions. One petition, for example, signed by one hundred forty citizens from northeastern California, admitted that in their conflicts with Indians, "settlers have hunted the Indians and, in most cases, killed them indiscriminately when found."³⁰²

Like Browne, Bailey also found evidence of fraud and malfeasance, including government funds used to support the white settlers living on the reservation rather than expended to feed, clothe, and house Indians.³⁰³ What Bailey found was a scenario that exemplified the challenge faced by California Indian peoples in all regions with reservations. The federal government had left Indian affairs in the hands of Henley and a few subagents, with little financial support, and separated by several thousand miles from Washington. The result was that the state of California was able to exercise a great degree of control over Indian affairs, responding to the demands of citizens by pressuring federal agents and army officers to side with the settlers and miners against the Indians. As Browne and Bailey observed and reported the corruptions and failings of California's reservations, however, what they may not anticipated were the deleterious effects their investigations would have for Indian peoples.

Congress responded by punishing California Indians for Henley and other Indian superintendents and agent's mismanagement and corruption. In 1859, the federal government allocated only \$50,000 for Indian affairs in California.³⁰⁴ Following Henley's dismissal, Henley and his sons continued to live on reservation property, and became ardent anti-reservation advocates. Henley's sons served in volunteer companies. Henley held onto the cattle belonging to the reservation; by his own admission, perhaps as many one thousand head.³⁰⁵ Meanwhile, the seven reserves were either reduced or closed altogether. Congress acted to split control of California Indian affairs in two, creating a northern and southern superintendence. Nome Cult remained in operation. Funding for the entire state, however, was \$57,500. The act also limited the number of subagents and employees for each reservation. In 1864, Congress returned Indian affairs to the control of one superintendent. Congress also empowered the president to create four reservations in California, which could include existing ones or new ones. Stipulations included that the reservations be as far from whites as possible. Worst of all, any lands previously reserved but not renewed by the president were available to the public for purchase—the proceeds going to the federal

³⁰¹ John Ross Browns to J.W. Denver, Commissioner of Indian Affairs, 18 January 1859, M234, Roll 37, ser. no. 14-21, Letters Received by the California Superintendency, National Archives and Records Administration, Pacific Branch, San Bruno, California.

³⁰² Petition of the Settlers of Shasta County, California, September 1867, M234, Roll 42, ser. no. 235-242, Letters Received by the California Superintendency, National Archives and Records Administration, Pacific Branch, San Bruno, California.

³⁰³ Carranco and Beard, *Genocide and Vendetta*, 72; Ellison, "Federal Indian Policy," 66.

³⁰⁴ Ellison, "Federal Indian Policy," 66.

³⁰⁵ Carranco and Beard, *Genocide and Vendetta*, 88, 90-93. Corruption sponsored by reservation officials continued in Henley's absence.

government, not Native peoples.³⁰⁶ Federal policy had reached a new, apathetic low. Not that this was enough to please many Americans in California, who objected to federal authorities attempting to protect Indians rather than the interests of the white citizenry. Meanwhile, the federal government, already unsuccessful in its efforts to protect Indian peoples in California, were not about to keep paying for the effort. California Indian peoples entering the 1880s and beyond, plummeted toward a shocking nadir. By, 1900, just fifty years after the discovery of gold, disease, violence, and starvation had reduced the California Indian population to only ten percent of what it had been.

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CONSEQUENCES FOR NATIVE AMERICANS AND THE ROUND VALLEY RESERVATION

The end of the Mendocino War, the dismissal of Henley, and investigations by the state and federal governments produced few, if any positive results for the surviving Yuki and other Native American people relocated onto the reservation in Round Valley. In 1861, for example, kidnappings remained rampant in the region, with forty to fifty Indian children kidnapped by residents in first few months of the year. Some remained in the area as household servants (slaves), with others sold elsewhere. Kidnappings and rapes in the region contributed to an epidemic of venereal disease among Native Americans in the valley. One official estimated that twenty percent of the reservation's population suffered from venereal diseases of one sort or another.³⁰⁷ This negatively affected birth rates, health, and family structures. Change was not forthcoming, either, as the systems and patterns of violence established by Hastings and his fellows in the 1850s persisted at the behest and on the behalf of the white population of the region.

Leadership changes did not help, either. Superintendents and Indian agents supervising the internment of Native Americans on reservations continued to cater to the demands of the non-Native population. James Short, who received his supervisory post as a political patronage reward from the Lincoln Administration, found the reservation in Round Valley financially broke, uncultivated, and surrounded by "hostile settlers." Far from turning things around, Short made matters worse. Short, who had no experience in Indian affairs—typical of men holding such posts—sided with white squatters and settlers: he was deathly afraid of the Indian people on the reservation, and encouraged local whites in their depredations against them as a way of protecting his own skin. In fact, settlers raided the reservation, killing Indians with impunity. Short encouraged this, telling one member of a vigilante company in the region, "[What is] the use of men going into the mountains to hunt Indians when they [are] here on the reservation." A massacre ensued in August of 1862, which took the lives of twenty-three Native people on the reservation. By the settlers' own admission, this was a proactive measure to put down fears of Indian resistance. Disturbingly, some of the vigilante company members were using weapons loaned them by Short. Far from suppressing Native resistance, it encouraged it. In the fall, the federal government declared martial law, with the military coming in to restore order. Short was dismissed in 1863, not for his culpability in the massacre, but for mismanagement.³⁰⁸ After 1865, there were no independent Yuki communities left: all Yuki were either interned on reservations or living on white settlers' ranches or farms as laborers.³⁰⁹ For the remainder of the 1860s, into the 1870s, the reservation struggled, as did Native people all over

³⁰⁶ Jack Norton, *When Our Worlds Cried: Genocide in Northwestern California* (San Francisco: Indian Historian Press, 1979), 153. Dr. Norton's work is the foundational work in the field of California Indian genocide studies. Not only is the first extended consideration of the topic, Norton's use of the 1948 U.N. Convention has been influential in the scholarship that has followed, including this author's.

³⁰⁷ Carranco and Beard, *Genocide and Vendetta*, 61, 109.

³⁰⁸ Miller, "The Yuki," 131-132, 139-146; Carranco and Beard, *Genocide and Vendetta*, 107-115. James Short, quoted in Carranco and Beard, *Genocide and Vendetta*, 114.

³⁰⁹ Miller, "The Yuki," 348-349.

California, who endured intermittent massacres and forced removals as well as a revolving door of inept and/or corrupt agents and superintendents ineffectually working to better their lives and living conditions.

In the 1870s, a civilizing program came to the Round Valley Reservation, including a day school and a Sunday school aimed at acculturating Native children. Three successive Indian agents affiliated with the Methodist Church directed the programs over the course of a thirteen-year period, 1871-1884.³¹⁰ Later, in 1881, a short-lived boarding school opened in the valley, in hopes of speeding up acculturation, but young Native men burned it down. Hop ranching in Round Valley appeared during the same period. The Indian agent encouraged internees to work for local hop farmers; thus, continuing the tradition of Native people forming the backbone of the local economy by providing its labor, mostly to the benefit of whites rather than themselves. Indeed, according to one of the Methodist Indian agents, John L. Burchard, "Indians are used, kept and held much in the way as slaves were in the former slave states."³¹¹ Not surprisingly, the focus of education and training in schools and boarding schools was supportive of this, and always geared toward making Indians better laborers for whites.³¹²

The 1880s produced new national Indian policies that reshaped the lives and futures of the Native Americans living in Round Valley. The General Allotment Act, also known as the Dawes Severalty Act, became law in 1887. Ostensibly designed to aid Indian autonomy and offer Native Americans access to ownership of lands, the Dawes Act typically achieved the opposite result. The Yuki and other Native people in the valley saw the allotments as a way of preserving their land base, while white legislators saw it as a way of acculturating Native Americans and tying them to the land, preventing seasonal movements.³¹³ Both groups would be disappointed, as acculturation did not follow, and access to some lands, lost. Meanwhile, with allotments determined and put in motion beginning in the 1890s, squatter and settler claims finally resolved.³¹⁴ Even with the settlers finally moved off the much-reduced reservation, Native land holdings in the valley would continue to decrease for the next thirty years because of the Dawes Act.³¹⁵

Even at the outset of World War I, the population of Round Valley remained an important labor force for whites in a variety of industries, especially hops. Indian workers were particularly popular in this industry, where they received fifty percent or less of what one had to pay a white worker. During the war, thirty-three Native men from the valley served in the military. Those remaining on the home front played an important role as well, with some leasing out their lands for farming for a good return owing to increased agricultural prices during the conflict, and some working others' lands in an atmosphere of higher wartime wages.³¹⁶ Following World War I and with the onset of the Great Depression, fortunes changed for the Native Americans of the valley.

As with many other parts of the country, the Depression hit Round Valley hard. In particular, the agricultural sector of the economy suffered from both depressed prices and lowered wages. The Native Americans of the region survived by a variety of strategies, from working further afield to taking advantage

³¹⁰ Todd Benson, "The Consequences of Reservation Life: Native Californians on the Round Valley Reservation, 1871-1884," *Pacific Historical Review* 60, no. 2 (May, 1991): 221-244.

³¹¹ John L. Burchard, quoted in Kevin Adams and Khal Schneider, "'Washington is a Long Way Off': The 'Round Valley War' and the Limits of Federal Power on a California Indian Reservation," *Pacific Historical Review* 80, no. 4 (November 2011): 567.

³¹² Miller, "The Yuki," 189-205, 242-250. Board school officials prevented Indian boys from seeing Indian girls; to regain contact with the girls, the boys burned the school down to force its closure.

³¹³ Bauer, "*We were all*," 112, 117-119. For an example of the land sale aspect, see: the U.S. Department of the Interior advertisement: "Indian Lands for Sale," accessed March 31, 2018, https://commons.wikimedia.org/wiki/File:Indian_Land_for_Sale.jpg.

³¹⁴ Adams and Schneider, "'Washington is a Long Way Off,'" 557-596. This article is particularly useful for those wishing to understand the intricacies of dealing with squatters claiming reservation lands, complicated by the lands' designation as reservation lands with shifting boundaries, reclaimed swamp lands, claims of improvements by squatters, and preemptive entitlements.

³¹⁵ Miller, "The Yuki," 315-316, 329-338.

³¹⁶ Bauer, "*We were all*," 90-91, 159-160.

of New Deal-era assistance programs—some designed for Native Americans, some for all Americans.³¹⁷ Perhaps the most important Depression-era development for the future of Native Americans in Round Valley came in the form of the passage of the Indian Reorganization Act (1934). The IRA ended allotments and the government's fixation on Indian assimilation of white ways as the centerpiece of its Indian policy. Instead, it put in motion the vision of John Collier, Commissioner of Indian Affairs, for the future of American Indians. Collier called for a return of sovereignty and to self-government, an emphasis on economic self-sufficiency, and protections of remaining tribal land bases, but not for restoration of losses. In 1936 the Native Americans of Round Valley voted in favor of accepting the IRA and began the process of creating a tribal constitution and government. Round Valley Indians were empowered to protect their land base, formulate and institute economic plans, and engage in self-government.³¹⁸ Part of the process involved in accepting the IRA was forming a new group identity for Round Valley Indian people. A new tribe formed as part of the process, first known as the Covelo Indian Community—and now known as the Round Valley Indian Tribes, which is a federally-recognized group. Joining the Yuki in this synthesis are Pomo, Nomlacki, Wailacki, Concow, and Pit River peoples.³¹⁹ Despite the new tribal government and constitution, the advent of World War II for the United States in 1941 found the Round Valley reservation in a continuing state of economic decline. The hops industry in the region had collapsed during the Depression and Native workers had to work far from home or even leave the reservation. The war restored some economic opportunities, as did a timber boom in the region following the conclusion of the war in 1945.³²⁰ But these opportunities did not persist.

As recently as 2012, a report revealed that an eighty-nine percent unemployment rate existed on the reservation, and that sixty-eight percent of Native people were living below the poverty line.³²¹ The reservation and the surrounding community are rural and isolated, now located far from vibrant economic opportunities. Agriculture has become increasingly corporatized and concentrated in the lower Sacramento Valley and the San Joaquin Valley. Logging, while not gone, has become limited as an industry because of both competition and environmental laws. But perhaps these economic concerns and consequences pale in comparison to the human toll taken over time.

The collective demographic and cultural consequences of nineteenth-century American invasion and resettlement of ancestral lands were disastrous for the Yuki. With a population estimated at six thousand prior to the discovery of gold in 1848, by 1856, five thousand Yuki remained. By 1858, three thousand. By 1864, just three hundred. By 1880, only one hundred sixty-eight.³²² In 1973, there were “only two full-blood Yuki Indians” still alive in Round Valley, with another fifty people of mixed Yuki ancestry living there.³²³ In 2004, historian Benjamin Madley identified one hundred persons of Yuki ancestry in Round Valley, only twelve of whom were native speakers.³²⁴ Meanwhile, beyond the acreage controlled by the Round Valley Indian Tribe on the Round Valley Reservation, little of the land in the valley remains in Native hands today, and in Eden Valley, once the home to hundreds of Yuki people before the coming of Hastings and his herds, none.

³¹⁷ Bauer, “*We were all*,” 178, 187-194.

³¹⁸ Bauer, “*We were all*,” 200-203.

³¹⁹ “About Us,” Round Valley Indian Tribes, accessed April 8, 2018, <https://www.rvit.org/about.php>.

³²⁰ Bauer, “*We were all*,” 205-206.

³²¹ “Round Valley Indian Tribes Receive \$8.5M in Renumeration [*sic*] from the United States, 03 May 2012, *Indian Country Today*, accessed April 8, 2018, <https://indiancountrymedianetwork.com/news/round-valley-indian-tribes-receive-85m-in-renumeration-from-the-united-states/>.

³²² Historical population numbers for the Yuki are difficult to ascertain at best. Oftentimes, reservation agents and army officers did not distinguish between the Yuki and other Native American groups brought onto the reservation. The numbers I include here are based on contemporary, primary source estimates addressing the Yuki as a distinct population. Sources of these numbers quoted in: Carranco and Beard, *Genocide and Vendetta*, 14, 126-127; Madley, “Patterns,” 181; and Miller, “The Yuki,” 63-66.

³²³ Miller, “The Yuki,” iii.

³²⁴ Madley, “Patterns,” 181.

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APPENDICES

APPENDIX A: POPULATION ESTIMATES, 1848-2010³²⁵

Year	California Population	California Indian Population	U.S. Indian Population	U.S. Population
1848	15,000	150,000	n.d.	n.d.
1850	92,597	n.d.	400,764	23,191,876
1860	379,994	35,000	339,421	31,443,321
1870	560,247	30,000	313,712	38,558,371
1880	864,694	20,500	306,543	50,189,209
1890	1,213,398	16,624	248,253	62,979,766
1900	1,485,053	15,377	237,196	76,212,168
1910	2,377,549	16,371	265,683	92,228,496
1920	3,426,861	17,360	244,437	106,021,537
1930	5,677,251	19,212	332,397	123,202,624
1940	6,907,387	18,675	333,969	132,164,569
1950	10,586,223	19,947	343,410	151,325,798
1960	15,717,204	39,014	551,669 ³²⁶	179,323,175
1970	19,953,134	91,018	827,255	203,302,031
1980 ³²⁷	23,669,902	201,369	1,420,400	226,542,199
1990	29,760,021	242,164	1,959,234	248,709,873
2000	33,871,648	333,346	4,119,301	281,421,906
2010	37,253,956	362,801	5,220,579	308,745,538

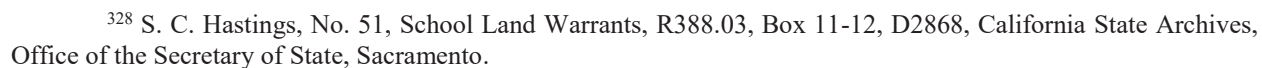
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³²⁵ Sources for Table I: Paul Stuart, *Nations within a Nation: Historical Statistics of American Indians* (New York: Greenwood Press, 1987), 52, 54, 57; Richard S. Hyslop and Crane S. Miller, *California: The Geography of Diversity* (Mountain View, CA: Mayfield Publishing Co., 1983), 10; Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven: Yale University Press, 1988), 194; Russell Thornton, *American Indian Holocaust and Survival: A Population History Since 1492* (Norman: University of Oklahoma Press, 1987), 109; Rawls, *Indians of California*, 171, 214; and United States Census Bureau, accessed January 30, 2018, <https://www.census.gov/>. Prior to the 1960 census, data excludes Native Americans of Alaska and Hawaii.

³²⁶ The sharp increase in Native American population in the 1960 census is due to the admission of Hawaii and Alaska as states, and the addition of their indigenous populations to census data.

³²⁷ The sharp increase in Native American population in the 1980 census is due to a shift in policies allowing individuals to self-identify as Native persons.

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APPENDIX C: TRANSCRIBED DEPOSITIONS OF HASTINGS AND HIS STOCK MANAGERS³²⁹

Record F3753: 484 Deposition of S. C. Hastings

S.C. Hastings being sworn says I reside in Solano County my age is 45 years my occupation is that of a dealer in Horses Cattle and real Estate. About the month of august 1858. I owned between 3 & 5 hundred breeding mares and colts desiring to find a place to graze them and raised horses and stock. I enjoyed of the Superintendent of Indian Affairs Col. Henley who recommended to me Eden Valley and the Country between the middle and South forks of Eel River then uninhabited except by the Yuka Indians who had been and were then hostile to the white people and had been committing depredations upon the stock in the vicinity of Round Valley and upon consultation with Col. Henley I believe that I could by feeding one or two tribes subdue them and make them useful and have no difficulty with them and to this end I placed my horses in charge of H. L. Hall he was then a stranger to me but was highly recommended to me from persons in Iowa he took the Horses to Eden Valley and established a Ranch there at my expense and supported a Rancheria of Indians around him from the month September to the month of January 1859, when I arrived at Eden Valley with a herd of about 300 cows and calves & put them also in charge of Mr. Hall on my arrival then I learned that the Indians had dispersed from the Ranch in the Valley and had killed seven breeding mare this I learned from Mr. Hall and two or three other persons I found when I arrived there. I had no doubt then nor have I at this time that the reports were true – on my way home about one days ride from Eden Valley my son a young man of 16 years of age informed me that Mr. Hall had been out the morning previous to my arrival there and killed 14 male Indians, in whose camp we found the remains of horses, this fact was concealed from me by Mr. Hall. In the month of April then following I drove into that country to South Eel River about a thousand head of cattle, intending to drive them into Eden Valley to join the other stock previous to arriving there I was informed by 1st Lieut Carlin of Maj. Johnson's Comd that the Indians had attacked my stock at Eden Valley and killed my black stallion valued over two thousand (\$2000.00) dollars and upon arriving at Eden Valley I learned that they had also killed my grey stallion worth over one thousand (\$1000.00) dollars and five fine American Bulls, and also two or three American stock Oxen. I found that the settlers and the officers under command of the U.S. States troops in that region were [illegible] prejudiced against Mr. Hall. I there upon took all my stock out of the charge of Mr. Hall and removed it to South Eel River and placed them in the charge of W. Robertson since which time I have had no connection in business with Mr. Hall except that I give him permission to remain in Eden Valley and cultivate as much land as he chose from his acres here [illegible]. I agreed to pay him for any fences he might erect on the premises.

Subsequent to my arrival in April last I again visited Eden Valley and the first person that I met was a Spanish Vaquero of Mine named Ferdinand who had just been attacked by the Indians and driven into the Cabins. I learned at that time that a large amount of my stock had been killed since my prior visit to the Valley.

I then visited Round Valley for the first time in my life called upon Dryden Laycock whom Govr Weller had commissioned to raise a small company of volunteers and found that Mr. Laycock would not serve without a private guarantee that his men and himself would be paid at a cash rate. I then called upon Lieut Dillon U.S. Army at his post in Round Valley and called to his attention those depredations on my stock. I distinctly understood him to reply that he had frequently expressed the desire that the Indians would kill all my stock in Eden Valley and Hall also. I then informed him I had long since dismissed Hall and he then said he would endeavor to do something to protect me. Knowing very well that he could not afford me any

³²⁹ The following depositions were transcribed from longhand originals held in the State Archives of California, Office of the Secretary of State. Where possible, I have corrected spelling in the pursuit of readability. In situations where text was impossible to transcribe, [illegible] is used to indicate this case.

protection with US States troops were he ever so willing against those Indians in the Mountains. I then carried a petition of the People to Govr Weller asking him to commission W.S. Jarboe of Ukiah City to raise a small company of volunteers against those Indians.

Until since the investigations of this committee I was entirely ignorant of any outrages commit except the one related by my son ted by Mr. Hall and the Indians. I had dismissed him not because I then knew that he had committed any outrages but because that I was satisfied that my stock would be much better taken care of in other persons hands.

I had procured title to the whole of Eden Valley consisting of about 1200 acres and drove to that place and its vicinity stock to the value of about \$32000. The amount of my losses exceed 10000 which I believe has been caused by the depredations of Indians.

In the month of last April when I drove my stock to South Eel River I found missing of the previous stock I had delivered to Mr. Hall 33 head of Cows 27 breeding mares and five American Bulls.

Mr. Hall has had no interest whatsoever in my stock since I took them out of his hands and delivered them to Mr. Robertson in April last about that time Mr. Hall expecting the arrival of his Father who was reported to be a man of means. I gave Mr. Hall a writing stating that if he and his Father would purchase one third or one half I forgot which I would deed to them that portion of the stock at its original cost taking twelve percent per anum for that portion of the purchase more unpaid my proposition never was acceded to nor complied with and the Father declined to entertain it, and left his son.

I never had adjusted accounts with Mr. Hall.

On my application to General Clark from U S State Soldiers to protect my stock what application I made knowing from experience that the Indians being unfriendly would commence depredations in the winter a time of year when owing to the impossibility of any communication with the distant white settlements they were [illegible] Genl Clark acceded to my request and [illegible] Major Johnson and his company to that region to their very great chagrin and disgust feeling as they did that men who had gallantly defended their country's flag on the many perilous battlefields of Mexico the [illegible] position of being [illegible] to [illegible] vaqueros.

S. C. Hastings

Sworn to and subscribed before me this the 13th 1860 in Sacramento City

J.B. Lamar

Chairman on the part of the House

Record F3753: 449 Deposition of H. L. Hall

HL Hall being duly sworn says I am 25 years of age. I am farming and taking care of stock. Taking care of stock for myself and Judge Hastings and Col Henley. I reside in Eden Valley. I have resided there since the latter part of August 1858. There was no settler in Eden Valley when I went there. There were no inhabitants in Eden Valley when I went there. I took 320 head of Hastings and Henley's stock there when I went there and 45 head the next month. They were mares colts and horses. In December 1858 my Indians told me that one mare had been killed and before I went out after them they reported three or five killed. During that fall over one hundred Indians came in and camped near my cabin. As far as I knew these Indians were peaceable and these are the ones I mean by my Indians. I went up to the Rancheria with J W Smith, Charles McLean and William Vaughn. We found some 18 or 20 Indians who ran as soon as they

saw us. I think 8 or 10 were killed and the balance escaped. We there found one large buck Indian, some horse meat, horse bones and Hogs hair. We found some beef bones. The Indian was shot. He remained in the hut with a bow and arrows in his hand after we called to him to come out and attempted to shoot and we had to set fire to the hut before he would come out, when he was shot.

Within a few days afterwards I received from Judge Hastings about 230 head of Spanish cattle, consisting of cows, calves and bulls. Within a few days after Major Johnson came there with his company and camped about one week. A few days after I arrived there McDonald was reported to have been killed by the Indians and soon after I heard this I wrote to Judge Hastings that I did not feel safe there and wanted protection. About two months after I wrote to Judge Hastings Major Johnson arrived in Eden Valley with about 40 men. In the latter part of February I found the remains of a stallion. Up to this time I had been on no expedition against the Indians. I also found a cow with an arrow in it, which died the next day, and tracks where Indians had driven another. I then came over to this valley and applied to Lt Dillon for protection. He told me he wished the Indians would kill all the stock in Eden and Round Vallies. Five men in this valley then volunteered to go out with me and punish the Indians. They came over to Eden Valley the next day and the next day we started out after the Indians. We followed the trail of the Indians some four miles where the trail forked. We followed one of the trail about two miles and found the Indians. There were about 30 all told. We killed at that time some 8 male Indians. The rest escaped. In this camp we found no evidence of stock having been killed in this camp. We followed on some two miles and came across another camp, we found them all gone but one sick buck. We told him to tell the Indians to come in and that if they did not quit killing stock we would kill them. We followed on some four miles farther and found a camp with parts of two Beeves and part of a horse in it and some Indians. We found 3 or 4 squaws and 3 or 4 children all of whom we took prisoners, and in taking them into the valley they gave out and we left them. Mr. Maxson asked do you know if any of the squaws were killed.

Witness declined to answer.

I did not see any killed nor did I kill any of them. I saw one of the squaws after she was dead, I think she died from a bullet. I think all the squaws were killed because they refused to go further. We took one boy into the valley and the infants were put out of their misery and a girl 10 years of age was killed for stubbornness. The Indians after stole the boy we brought in. When I got home my vaquero told me the Indians had been running the stock. The next day early in the morning two of us went back to get the male Indians in the Rancheria we where we had taken the prisoners the day before. When we arrived there we found none. They had just gone and taken most of the meat with them; and we returned on account of a storm. A part of the other men went within a day or two to look for the Indians who had been running the cattle, they found a portion of the cattle on this side of the river. About that time I went to look for my horses and found another stallion missing, and have never found him or his remains since. My volunteers soon after returned to Round Valley and every day or two I would miss some of the stock and find Indian tracks. It went along in that way until about the middle of April. At that time the Indians killed one ox and wounded another with two hundred yards of my house. Before this about the 1st of April we found where the Indians had killed two horses and wounded another which died afterwards. Up to the middle of April there were missing 5 Bulls, 25 head of horses and 25 head of cattle. I went to Ukiah and found Judge Hastings driving up 669 head of cattle which we drove up and left on the same range at south Eel River and then immediately moved the stock from Eden Valley to the same place. He remained there three or four days. I proposed to him to get up a petition to the Governor for protection. We came to the conclusion it was best to form a company of 20 men and concluded on Mr. D. Lacock to command it. We got what signers there was there to a petition, which I think Judge Hastings drew and there were about ten signed it. At that time myself and one white man resided in Eden Valley. This petition asked for protection and recommended the organization of a company under command of Mr. Laycock. I did not see the petition

afterwards. Previous to this the Indians had taken an animal that was picketed within 3 or 4 hundred yards of my house. About the 10th or 12th of April when the Indians stole the boy and the two mares I sent a note to Lt Dillon asking protection, he sent four or five men and the corporal told me he had brought 7 or 8 days rations and if no Indians showed themselves they would leave. They staid there 5 or six weeks, Major Johnson sent them more rations; The night of the election in May last my Vaquero told me the Indians had taken 2 horses that were picketed within two hundred yards of my house. The Indian said he had followed the trail into the brush, the Indians leading the horses, The night I returned the Indians came within 100 hundred yards of my house and took three other horses. One was picketed and the other two were not. Up to this time there had been no expedition made against the Indians by anyone, except those above referred to.

There were on that night stopping at my house two white men besides myself and four or five soldiers. I called on the Corporal to go out with me after the Indians and he told me that his instructions were not to leave the House to go after the Indians on any occasion – to kill no Indians unless they attacked the house. I directed the two white men who were stopping with me to trace up the Indians and I went to south Eel River for help and returned the same day and brought two men with me. Next morning at the brake of day five of us started and got out as far as the two men referred to had followed the track of the Indians and found where the Indians had separated – two of the horses having been taken one way and one another – followed the trail of the two horses some two miles farther. There we found where they had killed them, as evidenced by blood and hair.

We took the trail where they had carried the meat off followed about $\frac{3}{4}$ of a mile and found the Indians, in a very rough canon, we attacked them, they jumped into the brook and commenced shooting arrows at us, there was about 25 or 30 Indians in the party we killed 10 or 12 of them and one woman – after the fight we found the flesh of the 2 horses in their camp, which we burned, the meat we poisoned with Strychnine – we found afterwards a part of the horses spoken of – About this time the commission arrived for Mr. Laycock brought by Mr. [illegible] said he had been sent with it by Judge Hastings. I brought the commission to Round Valley to Mr. Laycock he took but refused to act under it, he took some steps to organize a company but afterwards abandoned it on account of the pay. About this time the stock had all moved out of Eden Valley – about the 10th or 15th of July Judge Hastings was here and found Laycock had not acted the Indians they were engaged in killing stock, The next day we went out found one Indian he shot and killed a horse in sight of us and escaped – we shot at him suppose we wounded him.

When Hastings we proposed to form another company under the commission offered to Mr. Laycock we formed a company with Mr. Jarboe as Captain. Jarboe told Hastings he would act as Captain. Captain Jarboe formed a company of 8 or 10 men, myself among the number, whom I think signed a roll. We then went to work against the Indians. We made an expedition to the west of Eden Valley on Eel River, we found Indians but got but one squaw who was shot by mistake. When we came back to Eden Valley we heard from Mr. Hildreth the Indians had killed some colts and a cow in the pasture near the house. I think on the next morning after we arrived the Indians came into the valley and killed four or five saddle colts, one or two mares and a fine American riding mule. The colts and mares belonged to Hastings and Henley and the mule I believe belonged to Henley – I understood them to be so owned. We immediately gave pursuit to the Indians. We followed them some 8 miles through almost impassable canons, we found the Indians camp, but they had left. We found their part of bones of animals, we followed the trail they had gone until we met Capt. Jarboe, but found no Indians that day and returned home. A few days afterwards the Indians killed some more cattle and I saw the parts of two or three carcasses. We then pursued the Indians and found some 20 or 30 Indians in camp and commenced the attack whereupon the Indians returned the fire. Captain Jarboe was wounded, 10 or 12 Indian killed and 8 were taken prisoner – four women, 3 children and one man. This male Indian was court-martialed and shot. The others were sent to Nome Cult Reserve. The next expedition

was to the forks of Eel River where two Indians were killed by the scouting party. The next was to the southeast of Eden Valley, we found a party of Indians in the brush, attacked them and killed two or three and the rest escaped. Soon after this a commission came to Captain Jarboe from the Governor to raise 20 men. I remained with the company until about the 8th of November when I obtained a substitute. I presume there were 30 or 40 Indians killed while I was with the company and something over 100 prisoners taken, who were sent to Mendocino Reserve. I believe that G.W. Henley supplied Capt. Jarboe with supplies for his command after his commission arrived. Their usual course was to knock down a beef whenever they wanted it where they could find it most convenient. I understood that they kept an a/c of all the beef they killed and reported it to the owners. I own 1/3 of Eden Valley and Judge Hastings and Col. Henley own the rest. Our cattle range over a country 10 miles long and two or three miles wide. L.W. Smith, has been working in the valley and is now near Mendocino Reserve. Charles McLean is now in this valley, William Vaughn, I think is in this valley. Neither of the last two have ranches that I know of, but they are both working men. During my connection with Capt. Jarboe and my acquaintance with his operation he exercised no cruelty toward his prisoners. The actual value of the property that I know and have good reason to believe, was killed by the Indians under my charge would bring in the market I make a rough guess not less than \$5,000. By the stallions being killed at that time when they could not be replaced, we lost the use of the mares for the season. The damage is equivalent to \$3000. I think there is a necessity for protection to be afforded to the citizens in this [??] for their lives and property.

H. L. Hall

Sworn to and subscribed before me at Storms' Hotel in Round Valley this [2?] day of February 1860.
J. B. Lamar Chairman
of the select Committee on Indian Affairs

Record F3753: 433 Deposition of William Robertson

William Robertson being duly sworn deposes and says – am [illegible] years of age – am a Ranchero I live in Ukiah Valley, Mendocino County. I have resided here since November 1858 – I have a wife here – In November 1858 I took cattle from Judge Hastings on shares first 240 head of cattle and in the following April there was 40 or 42 short, I suppose the most of them was killed by the Indians, Some of the cattle I saw after they were killed. In the last of April I secured 8 or 900 head more from Judge Hastings from that time on the Indians killed more as or less, and I saw some wounded and the remains of others. In August I took about 28 riding horses and put them in a pasture about one half mile from my house and the first night that I put them in the Indians killed four or five or six that I saw – the next night they killed two horses, and one mule, that I saw, Sometime in January, or February 1859 I know the Indians killed two very valuable stable horses belonging to Judge Hastings – The horses were worth two thousand dollars, I did not see them killed, but I am satisfied that the Indians killed them – The Indians confessed to me that they killed them and said they intended to kill stock and men as long as they lived. I abandoned my stock on account of the Indians about two months ago, because the Indians would kill more than my part of the increase would come to and sent word by an interpreter (Mr. Howard) that they would kill me. I was afraid to leave my family there without proper protection I alluded to my residence on Eel River. I expended \$[700?] taking these cattle up there, and worked myself all summer with two Vaqueros whom I paid and gave up my contract on account of the Indians. Several of the citizens from Round Valley – Little Lake Valley and Redwood Valley together some proposed to petition to the Governor to send a company to protect the citizens and property and property in that section of country – They then drew up the petition. They met in the summer of 1859 on South Eel River. I think it was in June. There were between twelve and twenty citizens present. I think they all signed the petition.

After the signing of the petition I think it was nearly two months until the Volunteer company was organized – The company was organized under the command of Capt Jarboe and Lt. Wood. That was the first organization I knew of. The organization was made at Eden Valley. There the officers were elected and the men signed the roll after Jarboe's commission had arrived. I signed at that time. At the time I enlisted I lived at Eel River. I had charge through my contract with Judge Hastings of the stock on Eel River and Eden Valley Ranches. Eighteen men enlisted at that time. A short time after the organization they brought in, at different times, some prisoners, but I do not know when or how many. I remained at Headquarters most of the time as camp keeper I was in service one and one half or two months. While I was there may have been from six to twelve prisoners brought in, who were sent, to Round Valley Reservation. They consisted of women of children. When the company was organized Capt Jarboe said to his men that he would discharge any man who harmed a woman or child. I think Capt Jarboe brought the prisoners above referred to

[Page 4 missing; not transcribed]

his companion saw some Indians crawling on him and warned him of the fact, when he discharged his pistol at the Indians and both parties ran. All the stock spoken of as having been killed were the property of Judge Hastings. There is over \$10,000 worth of stock missing since I went to Eel River in November 1858. I found one that was dead in the river, I suppose it had been dead two months or more. This was the only whole carcass I ever found out of the first lot of cattle. I have no present knowledge of these Indians attacking a man or residence. I have no personal knowledge of a white man attacking these Indians. I have heard of white men being killed by Indians. I have heard by general report. I have no personal knowledge of any one offering to procure for pay any Indian children. I know by general notoriety that some eight or ten or more white men have been killed by Indians during my residence in Mendocino County. I have known these Indians near two years. I have always looked upon them as hostile Indians. They are not brave but treacherous. I consider it dangerous for a white man to pass along the road through this section of country unarmed and I have traveled it a great many times and only once without pistol and I never was attacked. I generally had my gun. It is notorious that a good many Indians have been killed during my residence in Mendocino County.

Wm. Robertson

Sworn to and subscribed before me this 21st day of February 1860 In Ukiah City

J.B. Lamar

Chairman Special Committee on Indian Affairs

Record F3753: 443 Deposition of William J. Hildreth

William J. Hildreth being duly sworn deposes and says – I am 25 years of age – am a Ranchero – Doing business for myself. I reside here – I came here to live last April – I have resided in this county about eighteen months, I resided in Round Valley from May 1858 till I moved to this place – I have a Ranch here – I keep stock here on the share for Judge Hastings – When I went to Round Valley there were unfriendly relations existing between the Whites and the Indians surrounding the valley. I have been in this business since last July – While I was there, there was from 500 to 1000 Indians in the valley including those who worked on the Reservation. I heard that Mr. Lawson lost while I was in the valley, about 8 or 10 head of hogs (I think that was about July 1858) Which loss was attributed to Indians who worked on the Reserve – He had the prisoners with him and took them to the Reservation. The first depredations that I know of my own knowledge being committed by wild Indians on stock was committed in Eden Valley This was in July last. The mares, colts and horses of Judge Hastings about 380 in number, were delivered to Robertson and myself. I lived from July last year to the last of September in Eden Valley taking charge of the stock running

on that end of this range. I turned into my pasture all my riding horses, about 35 in number and one mule belonging to Hastings and Henley. After letting them run there about a week I sent my rangers after the horses which were in the pasture. He came back and reported that some of them had been killed by Indians. I went down and found three of the three year old colts, a mare and the mule – dead. They were shot and we found the points of arrows in them. I raised a party of six men and went into pursuit of the Indians and tracked them to where they crossed the Middle fork of Eel River going in the direction of the Reservation. I lost the trail at a point about 3 ½ miles in from the Reserve. Eden Valley is ten miles distant from this point in a northerly direction and Middle fork of Eel river is 15 miles from this place in a northerly direction. I have no means of judging what Indians committed this depredation but it was my impression at the time that they were Reservation Indians. Those five head of stock I should think were worth \$490. I valued the mule \$250. There are no other stock on this range but that of Judge Hastings and there has been none. About a week after there were four other horses killed in the same pasture. We found them dead with arrowheads in them. These animals were worth \$240. I then turned my horses out of the pasture, on the range for safety.

About two or three weeks after this I found three Indians skinning a yearling steer. I fired at them twice and they ran down the canon. I then raised a company and followed these three Indians to their Rancheria. We attacked them and killed Seventeen. One of our party Mr. Jarboe was wounded. I led the party. One squaw we found dead the rest were bucks. The squaw was shot by accident. We took one buck, four squaws and three infants prisoners. We took them to Eden Valley where the Indian through an interpreter confessed that his tribe had killed a great many stock and would continue doing so as long as any stock ran loose. He also stated that his tribe, would kill white men – The interpreter was a boy of the same tribe who had been raised by white men and belonged to Mr. Robertson. The boy was about 16 years of age and spoke their language well. He court martialed the man and sentenced to death and shot him. The squaws and infants were sent to the Reservation. Since that time I have never seen any stock dead that were killed by The Indians but at various times have seen cattle and horses with arrows sticking in them.

I have since July last missed seven or eight head of horse and colts that I cannot account for. The cattle I do not know how many are gone. Those that I have missed cannot be found on the Range, which is about sixteen miles square. Since I took charge in July last I estimate the damage to the stock to be not less than \$1,000. I have been acquainted with this stock since they were brought here. The first lot of stock consisting of 255 head of cows and 75 calves were brought here in January 1859. In April this lot was counted and there was 35 or 40 cows missing. At this time 670 head more of cows and steers and 200 calves were brought. These also came from Judge Hastings. About the 1st of July this lot was counted and about 60 head of cows and steers were missing. The stock that were missing up to July last were worth very near \$4000. In the Rancheria above referred to we found the skulls and horns of two head of cattle and also the hoofs of horses, also the crisped hide of a milk cow that I lost, and some jerked Horse flesh or beef. I belonged to Captn Jarboe's company which I found after his commission had arrived. The company was organized in Eden Valley. I joined in when the company was organized and was with them until October last. On one expedition we made to Long Valley we killed ten Men and took 50 prisoners. The prisoners were all sent to Mendocino Reservation. On another expedition in search of the body of John Bland we killed eleven men and took 97 or 8 prisoners. Most of these prisoners were tame Indians. About twenty of them were wild. We sent them to Mendocino Reserve. This was to the North East of Round Valley and about 25 miles from the Nome Cult Reservation or farm. George Henley furnished the prisoners. We took beef wherever we could get it. The above stated are the very successful expeditions I went on. I have a claim against the state for my services in the company. The prisoners were always given plenty to eat, tolerated well and given good advice through interpreters while I was witness [???]. Strict discipline was mentioned in the company and for an infraction of rules in regard to prisoners one of the men was discharged while I was with them. Captn Jarboe read instructions from the Governor instructing him to be sure to always get the guilty Indians and not punish Innocent ones. Capt Jarboe treated his prisoners kindly. He had bucks and a

squaw who were wounded and always dressed their wounds himself. I was employed on Nome Cult Reservation for one month in 1858 and I resided five or six months within a half mile of the Reserve. The Indians that worked were fed and those that did not were not fed. I worked Indians of the Yuki tribe. Captn Thomas was Indian Agent at that time and these Indians were allowed no meat and received six ears of corn per day while I worked them. Two Ears in the morning, two at noon and two at night. I worked them in an average eight hours per day. The Indians on this Reserve I think were treated very poorly.

W. J. Hildreth

Sworn to and subscribed before me this the 24th day of February 1860 at Hildreth's Rancho on the south fork of Eel River

J. B. Lamar

Chairman of the select committee on Indian Affairs

Record F3753: 444 Deposition of John R. Owens

John R. Owens being duly sworn says: I reside in Sacramento Valley. I came up here about the 22nd of the present month to assist in delivering some cattle for Judge Hastings. Day before Yesterday Indian sign was reported as having been seen on the trail from this place to Eden Valley also a mare was seen which was wounded. That night four of us went out about six or seven miles from this place in a westerly directions and camped for the night. At daylight yesterday morning we discovered an Indian Rancheria close in our vicinity. We attacked them but they all escaped. I suppose there were 30 or 40 Indians in their camp. We found the carcasses of three horses and one beef and some dried meat.

J. R. Owens

Sworn to and subscribed before me at Hildreth's Ranch on the South Fork of the Eel River this the 25th of February 1860.

J. B. Lamar, Chairman

Select Committee on Indian Affairs

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APPENDIX D: OTHER TRANSCRIBED DEPOSITIONS³³⁰

Record F3753: 357 First Deposition of Lt. Edward Dillon

Edward Dillon being duly sworn says I am 25 years old, am an officer of the US army, hold a commission of 2nd lieutenant of the 6 regiment of infantry, and am stationed at Round Valley in command of a detachment of 23 men.

I have been in the Valley in command since January 1859. My Headquarters are on the Nome Cult Indian Farm.

I have been in a position, by hearsay or actual observation to know all that has transpired in relation to Indian difficulties in this vicinity I mean in this valley or contiguous.

³³⁰ The following depositions were transcribed from longhand originals held in the State Archives of California, Office of the Secretary of State. Where possible, I have corrected spelling in the pursuit of readability. In situations where text was impossible to transcribe, [illegible] is used to indicate this case.

Upon my arrival here I found there were [illegible] upon the part of the settlers of serious depredations on part of the Indians. I was told that a large amount of stock was being killed daily or weekly and I understood that the settlers were in the habit of killing these Indians whenever stock had been killed or supposed to be killed.

I saw nothing however of these depredations myself not was anything reported until I had been here two or three weeks.

I had endeavored in the meanwhile to make the citizens understand that if depredations were committed and evidence of the facts were produced I should punish these Indians myself or turn them over to the civil authorities.

About that time Mr. Gibson informed me that the Indians had driven some hogs from his house and satisfied me of the truth of this assertion; I went accompanied by Mr. Gibson for the purpose of punishing the Indians who had committed the theft and took a portion of my command with me, I soon discerned signs of Indians going towards the forks of Eel River but discovered no sign of hogs. I came to a Rancheria which it seems these Indians must have entered, I told the Indians to come out which they refused to do and in consequence it became necessary to fire the hut and kill two Indians one of my men having been previously wounded by an arrow shot from a hold in the hut, no sign of hogs being found about the Rancheria.

A few days after this Mr. Hall of Eden Valley informed me that Indians had killed for him several cattle and a Stallion. I inquired if he knew the identical Indians or the identical Rancheria by whom this act was committed, he replied that he did not but requested that I should go and chastise the Indians near the forks of Eel River whom he supposed to be the guilty parties. I told him I had no intentions of making war upon innocent Indians but must know the identical parties, I told him moreover that I had been informed he had killed Indian, or men and squaws without sufficient evidence of their general guilt and that if the citizens intended to take this matter in their own hands it was useless for me to attempt to get the Indians upon the Reservation or to punish them without knowing of their guilt, I proposed to go with him with a party of men on one side of the River to bring these Indians in while I went on the other side for the same purpose, that if upon examination the Indians proved guilty I would assuredly punish them., this he agreed to do and a party left this Valley for that purpose. I found no Indians myself but heard shortly afterward that Mr. Hale and his party were engaged near Eden Valley killing Indians never having brought in one as he agreed to do; within a month after this, I went several times to the mountains for the purpose of brining in Indians charged with killing stock but discovered in no one instance any evidence of their having done so.

I expressed myself very freely in regard to what I regarded indiscriminate killing of Indians and the citizens in consequence at least some of them seemed to think that I was unwilling to punish Indians upon such evidence as they considered good and I do not recollect that any report was made to me for several months except a letter from Mr. Hale of Eden Valley requesting me to send men there for his protection, which I did.

I heard however constantly of Indians being killed in the vicinity of this and Eden Valley and I have reason to believe that stock was also killed in the latter place.

About the last of May Mr. [illegible] of this Valley reported to me that two cows had been killed by the Indians, I sent a party to examine into the circumstances and three of the Indians were taken confessed the deed, being unable to send them out of the valley to be disposed of by the civil authorities, two of them escaped while prisoners, the third was turned over to Col. Tho. I. Henley who agreed to deliver him to the authorities or to dispose of him in such a manner that he would not return to this valley, from this time till

the organization of Capt. Jarboe's company no depredations were committed in this Valley that I know of. Though I heard of stock being killed in Eden Valley and that Jarboe before receiving his commission was constantly employed in killing Indians.

In a conversation with Mr. Hall of Eden Valley subsequent to the one alluded to I again told him that if Indian were killed in Eden Valley as I had heard upon insufficient evidence he could expect no sympathy from me.

After Capt. Jarboe had received his commission he came into this valley about the time that Mr. Bland was killed and sent me a note requesting my cooperation in chastising the Indians that had killed Bland and some near the forks of Eel River accused of having driven off 200 head of stock from Long Valley. I was engaged at this time in examining the evidence in the case of Mr. Bland and was far from being satisfied of what Indians had killed him or that he had ever been killed at all, nor had I any evidence of stock being driven from Long Valley, I therefore declined to cooperate with Capt. Jarboe for the above reasons.

Since this occasion I have never been requested to examine into case of Indian depredations or been informed of any citizens that any had occurred.

I have been in command of the force stationed here since my arrival in this Valley.

In speaking of my agreement with Mr. Hale that I would take one side and he the other I mean the middle fork of the Eel River. I took the North side and he the South side. I have stated that I had heard that Jarboe was constantly employed in killing Indians, Capt. Jarboe stated to Mr. Hale he has attacked 10 or 12 Ranches previous to receiving his commission.

I never made the remark to any one that I hoped that the Indians would kill all the stock in this Valley or any other valley, but I did say that Mr. Hale of Eden Valley could expect no sympathy from me and I did not care if they killed all his stock.

Mr. Gibson satisfied me that his hogs had been driven out of his corral by examination of the corral, by seeing the tracks about the place, it has been a year since I cannot recollect all the circumstances that convinced me of the facts.

The troops now under my command were sent here at the instigation of Col. Henley superintendent of Indian affairs to protect the property of the citizens and the property of the Government upon the Reservation and the Indians upon the Reservation.

I suppose that there has been between 3 and 4 hundred Indians killed in the various expeditions in this vicinity against them. I base this supposition upon the information derived from others.

I think that sometime in August last Col. Henley with some 8 or 10 citizens of the Valley come to the Quarters of Major Johnson and stated through Col. Henley that a party of Settlers had that morning attacked a Rancheria on the middle fork of Eel River and killed some 10 or 12 Indians, that after having made this attack and killed the Indians, they found in the Rancheria a horses ear and tongue or two of them which they presented to Major Johnson and asked him if he did not consider the evidence sufficient, he replied, that in this case it was perhaps true that stock had been killed, but this case was an illustration of the principles for which he contended namely that there was neither justice or law in hanging first and then condemning, the evidence of guilt not having been discerned until the Indians had been killed. I do not mean to be understood to say that Col. Henley was with the party who killed the Indians.

Sometime in April or May last Thomas B. Henley brought to the Reservation Three Indians which he stated he had brought from a Rancheria on or near the forks of Eel River that upon arriving at the Rancheria he called the Indians out and told them to follow him to the Reservation one of them pretended to be lame which Mr. Henley said he knew was not the case and refused to come. Mr. Henley either stated that he killed him or had him killed because the Indian would not come with him because that from his looks and other reasons he considered him to be a bad Indian and did not wish to leave him, he also stated in addition that he did not know of the Indians having committed any depredation but they were in too close proximity to him.

I believe that I have sufficient force now under my command to protect the citizens from Indian depredation I the immediate vicinity of this valley say 10 miles within this place, but if the citizens take this matter into their own hands and assume the right to punish Indians whenever they please, it would diminish very much if not entirely my control over them.

If the settlers should desist from punishing the Indians themselves and the Indians should [still] continue to commit depredations I should deem it my duty to bring them in at all hazards and either to punish them myself or turn them over to the civil authorities as in my judgment should be deemed proper.

I consider myself authorized to punish Indians for crimes to any extent. I consider my instructions or construe them as giving me authority to judge and punish Indians myself.

I have never punished an Indian.

I suppose there are about 500 Indians of both sexes on the Reservation at this time, there has been more.

At certain seasons sickness prevails to a greater extent they then leave for the mountains and while the harvest is in the fields they are able to get food easier, again they have been afraid of being attacked by Capt. Jarboe's command when they were here, on two occasions quite a panic prevailed among them they came to my quarters in considerable numbers saying that the bad white men were coming to kill them.

The Indians on the Reservation are receiving at present from three to six pounds of wholesome food per head to the working hands. I have heard the testimony of Capt. [Reece] relative to the treatment of the Indians on the Nome Cult Reservation and believe it substantially true and correct.

The management of the Reservation had been interfered with by citizens of this valley upon several occasions. Shortly after I came to the Valley a Nevada Indian upon the Reservation was badly beaten by one of the citizens of this valley and a complaint was made to me both by the Indian and the overseer, the overseer stated there was certain reasons why he did not request the arrest of this man but coincided with me in the opinion that the man should be brought to trial, I therefore arrested this man on conformity to my orders at that time, the next day the citizens 25 in number came charging to my house and demanding the release of the this prisoner stating if he was not released by the next morning they would take him from me by force. I declined to release him stated to them I should fire into them if any attempt were made to pass my sentiment, for some reason they did not make the attack at the time stated, in the meantime the prisoner attempted to escape.

The prisoner did not make his escape through the collusion of the officers or by any of their orders, nor [illegible] after the expiration of the time at which they threatened to take him from me by force they persistently stated [illegible] they intended at some time to take him by force. – I did not make any attempts

to arrest the prisoner again although he was in the valley because I thought it proper to wait farther instructions from my immediate commanding officer as it would have been extremely hazardous with my small force at that time 15 men to arrest the prisoner if defended by the number of men who threatened to take him. The name of the prisoner was Brigantine.

About this time a Yuki squaw was reported by the agent as having been taken by force from the reservation with a request to arrest the man. I did arrest him but upon examination found the evidence was such as did not warrant me in detaining him I released him, his name was [Norvale?]

Sometime in the month of June last Mr. Bland now deceased came upon the Reservation without the consent of the Agent and took two Indians whom he accused of having stolen some articles of clothing from him he carried them to Williams Valley where he then lived but before he had punished them a corporal and party of men sent by Major Johnson arrived at his house causing Mr. Bland to leave [illegible], the orders of this corporal were to arrest Bland and to bring him together with any Indians at his home to Major Johnson – The corporal found no one in the house except a squaw whom he brought over.

The squaw said she did not wish to return to Bland's house and was placed by the overseer for protection in a house occupied by a sick white man on the Reservation and Mr. Bland was told that he would not be allowed to take her away, one or two nights after this he came into that house and forced the squaw off he took the squaw by the arms and pulled the squaw out of the door.

Her house was about 20 yards from the overseer's house, the squaw escaped from Bland as he himself told me and went to the mountains. I have never seen her since. This occurred some six weeks prior to the first rumor of Mr. Bland's death.

Record F3753: 434 Deposition of Charles Eberle

Charles H. Eberle being duly sworn deposes and says I am 29 years of age, am a farmer – I reside in Round Valley – I have resided in Round Valley since October 1857. I am a magistrate there. I think there are many Indians in that vicinity residing there. I consider these Indians unfriendly to the whites. They manifest their feeling by killing stock and our neighbors and friends. When I first went there the feeling was about the same. The Indians had killed a good deal of stock previous to my going there. Three or four months after my arrival there the Indians killed Mr. William Maulet. Mr. Maulet was one of the party who volunteered to assist John Owens to drive his stock to Cold Spring Valley, and on his return, the water of Eel river being high he undertook to drive his mare across the river prior to swimming himself and while doing so he was shot by the Indians. These were Yuka Indians. John McDaniel was killed by them a year ago last September. I helped to bury his remains on the mountain. This was about twenty miles from the valley. He was a hunter. Mr. Mantel I knew personally – He was a quiet, peaceable man. I never knew him to molest Indians in any way. John Bland was killed by them last fall. I knew him personally- he was a quiet peaceable man. He was killed about 8 or 10 miles [illegible] east of Round Valley by the same tribe who took refuge immediately at the Reservation. Mr. Bland went out hunting and took a Reservation Indians out with him, the Indian being at my house at the time he started. He told me he expected to return in three or four days. Two week passed and nothing was heard of him. At the end of the expiration of this time this Indians came again to my house and I recognized him. He came within 50 yards of my house and I called to him to come to me. He attempted to run and I got out my gun and brought it to bear on him. He came up to me. I then took him over to Mr. Bourne where there were Indians that could interpret between us. They told me that this Indians would, if I would, go with him to the Reserve show me two Indians who were with Bland when he had left him. I went with him to the Reservation and he pointed out one of the Indians, who was at work under one of the employees, and I arrested him. I took him up to Mr. Reese's quarters the superintendent of the farm. The other Indian, the Indian who pointed this one out, said was gone. I left the Indians in charge of Mr.

Reese while I went for a Spanish interpreter. When I returned with the interpreter Mr. Reese informed me that the last Indian I had arrested had ran away. This Indian interpreter then said there was a squaw there that could tell us as much as the Indian who had escaped. I was informed that this squaw afterwards guided a part of Jarboe's company out to where Bland's remains were found. Mr. Bland went to Tehama and left his cabin locked, which on his return he found had been broken open and robbed. He found some of the Reservation Indians, wearing his clothes. He go two that other Indians told him had broken open the cabin and whipped them. The Indians complained to Major Johnson and he attempted to arrest him several times. Lt. Dillon had an Indian under arrest, who, he told me he had every reason to believe was concerned in the killing of Mr. Bland and said he would see that he was punished according to law – The Indians was taken out of the valley and sat at liberty by Lt. Dillon's orders. There has been during the last three years constant depredations upon the stock. For more than a year there has been 20 or more U.S. soldiers in Round Valley. I believe that the citizens have applied tot eh officer in command for protection. I do not know of any protection the troops have afforded. On two occasions they went out with some citizens and attempted to bring in the Indians. And at one time they brought in about 25 old and young. The depredations of the Indians were on the increase about four or five months ago and the citizens did not believe that the duty of protecting their property should devolve entirely on themselves and hence their application was made to the Governor for protection. Shortly after this application was made one of our citizens received a commission but refused to act under it. A short time afterwards Capt. Jarboe organized his company and was afterwards commissioned by the Governor. When stock was stolen the owner informed Jarboe of the fact and he acted accordingly and went I presume according to his orders. I have not heard of so many depredations in the last two months and I think the settlers have been benefited by the operation of this company. I think the most of the Indians have gone back towards Long Valley. I never went out with Jarboe. I know of several times that they brought in prisoners. I saw no cruel treatment to the prisoners. It is my impression that the Indians are liable to renew their depredations again. The general character of the inhabitants is good as all are farmers or hired by the farmers – I do not think the citizens are disposed to interfere with the officer of the Reservation nor are they restrained from so doing through fear of the troops, I think if the soldiers were removed entirely there would be no disposition on the part of the citizens so to do. I think the Indians would be more peaceable if the troops were moved from there.

C. H. Eberle

Sworn to and subscribed before me at Ukiah City this 22nd day of February 1860

J. B. Lamar, Chairman

On the part of the House of the special committee on Indian Affairs

Record F3753: 436 Deposition of William Frazier

William Frazier being duly sworn deposes and says I have resided in Long Valley since 1857. Am 38 years of age—am a farmer—I have no family. I am a single man. Have been in California since 1850. The first depredations on stock committed in Long Valley was last October, with the exception of a few head killed a year ago. The first stock I heard of being killed belonged to Woodman. He told me he had lost 75 head of horses up to that time. This was in November last. Mr. Woodman and others stated that they had lost a good many head of stock but could not tell how many because the grass was short and the stock had strayed through the hills. Woodman and others employed by him stated that cattle had come to his house with arrows in them which afterward died. Some two or three head. I do not know of my own knowledge of any cattle having been killed by Indians, but I saw several carcasses but from their appearance I could not tell positively how they came to their death. No cattle that I know of died from want of food. The Indians and whites in 1857 were friendly. The first serious difficulty that occurred between the whites and Indians was one year ago when the three head of stock above referred to were killed. When Mr. Simpson, Mr. White myself and others hearing that the Indians had beef in the Rancheria in the valley went to the

Rancheria for the purpose of chastising the Indians, when all fled but one and we shot his head off. He tried to escape. Some friendly Indians brought some beef from the Rancheria to us. This was the last difficulty up to October last with the Indians. These Indians were known as the Kaya-Pomos. At the time this difficulty occurred they came to terms with us and have been peaceable ever since. The Indians with whom we have had difficulties since October last are known as the Yukis, who do not reside in Long Valley but were driven over from the east side of Eel River in the vicinity of Round Valley. In December last towards the latter part the citizens met and organized a company of forty men under the Command of Capt. Farley, I was elected Lieutenant. A day or two after the organization we started on our expedition across Eel River and in the mountains between Round Valley and Long Valley. We left Long Valley in the evening and traveled in the night until we saw the fire of an Indian Rancheria, which we surrounded when day was breaking and waited until near sun up before we attacked and killed 20 consisting of Bucks, Squaws and children and also took 2 squaws and one child prisoner. Those killed were all killed in about three minutes.

I took the prisoners to White and Simpson ranch where there are some friendly Indians and delivered them up White and Simpson, who promised to take care of them. We found in this Rancheria no sign of any depredation having been committed by these Indians.

At White and Simpsons I found an interpreter through whom the squaws said, that they had lived on beef and horse meat for some time. We used no threats or promises to induce them to say so—

They said that they had heard the Indians say that they had been killing stock [illegible] than the white man knew anything about and that they intended to kill all the stock in the valley. They assigned no cause for killing the stock and we could not induce them to do so. About a week afterwards we went out on another expedition into the same section of country. On the first night we found and surrounded a Rancheria in which we found two wounded Indians and one old squaw all of which we killed. On our return home we found another Rancheria which we approached within fifteen feet before the Indians observed us, they then broke for the brush and we pursued them and killed thirteen bucks and two squaws. The rest escaped and therefore I do not know how many were in the Rancheria. We took no prisoners. We found in the camp the carcasses of two horses. One of these horses belonged to Mr. Lambert, the other was not recognized. Mr. Lambert recognized his by the brand on the hide and color. We then went home. This company was organized for mutual protection there being no regular force in that vicinity. There has never been a company of US Troops in Long Valley. This was the last expedition I was on with the company. The company still hold themselves in readiness to act when necessity requires it. I never belonged to Jarboe's Company. On the Trail that led in the direction of this Rancheria we saw sign of meat having been carried along and that caused us to attack it. From that Time up to three weeks ago last Monday there has been no fighting in Long Valley. I suppose from what I have heard that there has been 200 head of horses and cattle killed there since October last. They were worth at least \$6000. They are a cowardly tribe of Indians. There are about 300 Kaya-Pomos. There are about 40 or 50 Cahto Pomos living on the rancho of White and Simpson who are also friendly. In 1857 the different tribes of Indians in that vicinity had a meeting and sent for me to be present. I think there were 2000 present. I was told by the friendly Indians that the Yukis encouraged the attempt to kill me. They surrounded me and one Indian drew his bow and arrow and held it on me, but I brought my pistol to bear on him before he could shoot and he cooled down—I then rode off. The only cause they assigned for it was that I made those around me mind me and sometimes whipped them and that they did not like me. There has been no white men killed in Long Valley that I know of and no buildings burnt. I think there is a necessity for an armed force in that Valley for the protection of the lives and property of the citizens at present. I do not believe that the citizens have applied to the Federal Troops for protection. The White population in that valley consists of about 125.

I know of no attack being made by the Indians either upon a white person or upon residents. I have often traveled through the region inhabited by these Indians alone without being molested by them; I know of no children being taken away from these Indians to be sent away. Among these hostile tribes which we attacked we found no children and I believe there had been a practice of abducting the children from them by some white men, and for purpose of procuring profit.

Before my company was organized there had been a good many Indians killed in the valley by the citizens and Capt. Jarboe's Company.

William W Frazier

Sworn to and subscribed before me this 22nd day of February 1860

JB Lamar

Chairman of select Committee on Indian affairs

Examination resumed

In the camps of these hostile tribes that we attacked we found a plenty of acorns, and such other food as they usually eat for their subsistence.

William W Frazier

Sworn to and subscribed before me this 22nd day of February 1860 in Ukiah city

JB Lamar

Record F3753: 438 Deposition of H. H. Buckles

H. H. Buckles being duly sworn deposes and says I am 34 years of age. I am a Painter – I reside in Ukiah – have resided in this county about two years, and in this place about four months – I have never been in Round or Eden Valley but have been in Long Valley during the last season as Deputy assessor which office I now hold. Two or Three weeks after he had assumed the command of the Company Captain Jarboe and myself met in this place. He desired me to join his command. I then asked him under what authority he acted. He told me he had not at that time received a commission from the Governor but expected one. He then said that Hastings and Henley had become responsible for provisions and they promised to get a bill passed through the Legislature to pay them. I mean Judge Hastings and Col. Henley. I refused to join the command from the fact that I did not believe Judge Hastings promises could be relied on. As to Col. Henley I knew nothing about. I said I thought the proper way would be to get a petition from the citizens and get an appointment in that way, before he proceeded. About the time the commission arrived for Capt. Jarboe. Kaskel Mears & Co. show me a letter from Judge Hastings, which I read, and which in substance was a request to that firm to furnish Capt. Jarboe supplies, for which he (Hastings) and Henley would be responsible. Mr. Cohen the clerk of the firm showed me the letter and asked me if I thought the letter would be sufficient evidence to bind Mr. Hastings for the payment of the goods if they were delivered to Capt. Jarboe. I told him I thought it would. I told him that I thought he had rather pay the prior debt that he owed them than have the letter exposed. I knew some of Capt. Jarboe's command. I knew some three or four. One of them I think was a man whose veracity was very questionable. The others were good men. He has the reputation of being one of the best fighting men in the company.

The general reputation of the members of the company was fair in this community. They were men who the people of this community relied in a great deal for protection;

Since the disbanding of the company Capt. Jarboe told me that his company had killed more Indians than any other expedition that ever had been Before ordered out in this state. He stated that they had killed about two hundred, He told me that previous to attacking a camp he usually sent in messengers to [illegible] to treat with them peaceably, and upon their refusal so to do he attacked them, but when possible spared the women and children, and that he sometimes gave blankets + clothing to prisoners to tell their tribe that he would treat them all so if they would come in. And that the prisoners so sent seldom returned.

Capt. Jarboe told me that after he had received his commission from the governor that Hastings and Henley had in a measure thrown him off and owing to his (Jarboe's) limited means he was at his wit's ends to furnish supplies for his men.

H. H. Buckles

Subscribed and sworn to before me this 23 day of February AD 1860 at Ukiah City

Jasper B. Lamar

Chairman of the Senate Committee

Record F3753: 440 Deposition of B. Newman

February 23, 1860

B Newman being duly sworn deposes and says he is thirty four years of age is a married man, that he is a Merchant resides in Healdsburg, Sonoma County—I am a member of the firm of Kaskel Mears + Co doing business in Ukiah City + Healdsburg. I do not know of any letter being received by our firm from Judge Hastings authorizing Mr. Jarboe to purchase goods on account of himself and Col Henley, but I was told either by my clerk or my partners or perhaps both that such a letter was received here, but I do not know that it was directed to our firm. I usually attend to business in Healdsburg and visit this branch three or four times a year and remain here on an average about one week at a time. I have searched for the letter to day and did not find it. Mr. Cohen was our clerk in Ukiah city from 1st May last until about one month ago.

B. Newman

Sworn to before me on this twenty third day of Feby AD 1860 at the Town of Ukiah Mendocino Co

J.B. Lamar

Chairman

Record F3753: 441 Deposition of Dryden Laycock

Dryden Laycock being duly sworn deposes and says I am 35 years of age – am a Farmer – I have resided in this valley a little over three years I have resided here nearly all the time I have lived in this county. I am employed by Capt. Storms. When I came here I worked on the Reservation with Capt. Storms until I came to work for him in his private Farm. When I came into the Valley there were no settlements in it but the Reserve. At the time I came here this valley was inhabited by a great many Indians of the Yuki tribe. At that time there was about 2000 Indians on the Reserve and under the control of the management of the Reserve. At the time I came here the Indians were committing depredations on the Government stock. They killed stock that was on the Reserve. In 1856 settlers began to locate in the valley. There are about 15 Farmers and stock raisers in this valley. From the time I first arrived in the valley up to the present time the Indians have been committing more or less depredations. In 1856 the first expedition of the Whites against the Indians was made and have continued ever since. These expeditions were formed by gathering together a few white men whenever the Indians committed depredations on the stock. There were so many of these expeditions that I cannot recollect the number, the result was that we would kill on an average 15 or 20 Indians on a trip and take some prisoners which we always took to the Reserve. Frequently we would have

to turn out two or three times a week. These depredations were committed by the mountain Indians and the Indians on the Reservation. The cause of recent difficulties between the Indians and whites in this vicinity were caused by the Indians killing stock and white men. In February 1858 Mr. Mantel went out for provisions in a few days afterwards a domesticated Indian boy who went with him, returned and said he had been killed by the Indians while attempting to cross the Middle Fork of Eel River. A party went out from here and brought the body in. I saw the body. There were three or more arrow wounds in the body. The Indians belong to the Shurmaya tribe who lived in Eden Valley. During the last year Messrs. Storms, White, T. Henley, Wilsey, Corbett, Gibson, and Lawson have had stock killed in this valley. I have seen dead fifty head of Hogs, Horses, and cattle that had been killed by Indians all of which belonged to Mr. Storms. I saw the bodies in the Mountains and in this valley. There are about 250 head more missing that I have good reason to believe were killed by Indians. I have seen carcasses in the Rancherias and remains laying around in the mountains and valleys. About May last three or four men in this valley who had lost stock and Judge Hastings of Eden Valley caused the organization of a company. They called the men of Round Valley together by verbal notice. They met at the Reservation. The three or four men that I spoke of I do not recollect, I attended the meeting. Ten or fifteen citizens of this valley + Judge Hastings and Mr. Hall of Eden Valley were present. They concluded it was best to organize a company. I had been offered command of a company before this by nearly all the citizens of this valley and I refused to take it. A short time after the meeting referred to a company was started by Judge Hastings and the citizens of this valley and they wanted me to serve as captain and I refused to take it because I thought I would never get pay for it. I was not a member of the company. Mr. Hastings wanted me to go on with it saying that he would stand good for it. I mean that he would see that the expenses were paid. He wanted me to start the company and go on with it and he would get my commission from the Governor. The commission was obtained and brought to me by Mr. Hall of Eden Valley and I refused to take it for the same reason that I refused to take the captaincy before. The commission was presented to me here at the house of Major Storms. When I refused to accept the command it was offered to Capt. Jarboe by Judge Hastings and Mr. George Henley who appeared the most anxious for the organization of the company. He accepted it. Jarboe's company started about two or three weeks after this. It consisted of different men from those over whom I was offered the command. I think they were in operation about a month and a half before his commission arrived and went on several expeditions against the Indians I do not know how many.

His company was formed from men from the vicinity of Red Wood Valley on Russian river, I was not a member of Capt. Jarboe's company.

From a three years residence in Round Valley and my experience with the Indians in the vicinities of Eden and Round Valleys and North Eel River I am acquainted with their character.

They are all treacherous and all excepting those on North Eel River are cowardly. Those on North Eel river are Known as the [illegible] Indians.

The wild Indians in the vicinities above referred to, between North Eel river and South Eel river I think number about ten thousand, They are divided up into small tribes viz the [illegible] [illegible] and the [illegible], and several other tribes, but they all go under the general name of the Yuki tribe.

There are two men now employed in this Valley to protect the stock from the depredations of the Indians. I do not know that the citizens previous to chastising the Indians made any attempt to induce the tribes to give up the guilty parties. There is a command of about 20 US soldiers stationed in this Valley. The citizens of this valley have made application to the officer in command to protect their property and he paid little if any attention to the request. I do not know who made the application. Lieutenant Dillon is in command of the troops here. He and the citizens are not generally on good terms. The reason that they are not on good

terms is that citizens have gone to him several times and Requested him to chastise the Indians who were killing stock + white men which he refused to do, He gave as his reasons that he did not believe the Indians were killing stock as reported. I do not know nor have reason to believe the Indians were killing stock as reported. I do not know nor have reason to believe that any persons in this country are engaged in abducting Indian children for the purpose of making them servants or any other purpose. The Indians first committed depredations I know of Nine White men who have been killed in this vicinity during my residence and have seen the bodies of four. The US Troops have been stationed here going on two years and the Indians have got no better but are getting worse. The reason I think so is that when the citizens go to chastise Indians who have committed depredations they go to Lt. Dillon for protection and it appears that he upholds them in it. I think it is necessary that the citizens of this valley should have protection for their lives and property. The Officers in command and myself are not in friendly terms. We frequently had to turn out of our beds at night to drive Indians off from the stock. The Ranch referred as that of Capt. Storms belongs to W.R. Storms.

Dryden Laycock

Sworn to and subscribed before me this 25th day of February 1860 at Storm's Hotel in Round Valley
LBJ Lamar Chairman of the Select Committee on Indian Affairs

Record F3753: 442 Deposition of James M. Wilsey

James M. Wilsey being duly sworn says – I am 25 years of age I have resided in this valley going on three years – I am a stock raiser – There has been a good deal of stock killed in this vicinity – This winter two years ago I lost I think between 25 and 50 head of cows steer and calves I know some of them were killed by Indians. I have seen some of the carcasses. I have been on expeditions against the Indians. I believe they were all killed by the Indians – I have lost stock off and on ever since. The last I lost I think was in January last. Last winter I lost about as many more. Since then I have lost a good many but I cannot say how many. Of my stock and those under my charge I brought 700 head into the valley. I never had any difficulty with the officers about Indians. They never came and took any from my house. There are a few stopping at my house. The employees of the Reserve. I have heard have taken some squaws from my house. I never took any Indians (either squaws or bucks) by force from the Reserve, nor kept any by force at my house, nor do know of any one doing so. I have two brothers living with me. I think an armed force is needed here to protect the property of the citizens from the depredations of the Indians. Since the US troops have been stationed here I do not think they have been of any service towards suppressing Indian depredations. I knew John Bland well in his lifetime. He was an honest, peaceable and quiet man, N.B. (Witness corroborates the testimony of Mr. Bourne in relation to the cause of Mr. Bland going in pursuit of the Indians)

Major Johnson sent a party of men to arrest Bland and take all the Indians he had about him to the Reserve. Mr. Bland saw them coming and went off leaving his squaw at the house whom they arrested and took to the Reserve. She was rather a good looking squaw. I never knew him use force to keep her and she always appeared contented. The next day after she was arrested I saw her at the Soldier quarters under guard. I don't know of her being charged with any crime or misdemeanor. She was standing in front of the Major's office and the guard was walking back and forth in front with a musket. The last time I saw her she was under guard. I believe the officers and citizens are generally on good terms.

J. M. Wilsey

Sworn to and subscribed before me at Storm's Hotel in Round Valley this the 28th day of Feb 1860
J. B. Lamar Chairman
select Committee on Indian Affairs

Record F3753: 448 Deposition of Jackson Farley

Jackson Farley being duly sworn deposes and says I am 39 years of age - am a farmer. I reside in Long Valley, have done so for near three years. I was one of the first settlers in the valley. I have a farm there and am raising stock. The valley is thickly settled. I suppose there are about one hundred voters in the Valley and vicinity. The Indians when I went there were wild and we could not get anywhere near them. The first stock killed there by Indians was three horses and a cow belonging to me. This occurred about the month of October 1857. I cut up one of the horses and found arrowheads in them. I applied to Captn Ford and he requested me not to interfere with them and said that when they took winter quarters he would remove them which he never did. Those Indians are there yet. They are not killing any stock now that I know of. The next stock they killed was this winter a year ago when they killed some six or seven head of Capt. Ford and he then took his stock away. The next stock that was killed was in November last, and was my stock. One milk cow. After some days search I found the remains of the cow and in searching for the Indians I found the remains of two horses in another Rancheria, one of which I believed to be a horse of my own for which I had refused \$500. I went home and got together a few of my neighbors and we went out to punish them. We killed three or four of them. The rest all escaped. I have lost 11 head of horses by Indians since I went there. Five of them were best quality of American horses. The cattle and horses that I have lost were worth \$3,000. Mr. Lambert, Mr. Woodman and Mr. Hale and several others have had stock killed. I suppose Mr. Woodman has had killed since last fall 100 head of stock, I walked along one evening and counted 48 head which I suppose they are Mr. Woodman because they were on his Range. The expedition I spoke of was the first against them there. About three months ago a company was organized in the valley under my command. Previous to that the citizens sent two petitions to the Governor applying for protection I signed the petitions. I think the company consists of 46 men. Mr. [Frazier?] is my first Lieutenant. The company turns out on the call of the captain. I never called them out except when stock had been killed. I have always endeavored to get only those Indians who had committed the depredations. I have been out at different times with the company 20 days. I think we have killed 150 or 200 Indians. We have taken 22 prisoners whom I sent to Mendocino Reserve. The Caya Pomos I think consist of 600 in all, they so far as I know have not killed any stock and say they will not if the whites won't kill them and we have never troubled them. Those that have been killing stock are [illegible] and Yukis. I think it is necessary that the settlers in Long Valley need protection for their property. The stock of the citizens roam around from 8 to 10 miles from the valley in the Hills. Mr. Buttner and Mr. Woodman have moved their stock from the valley for fear that the Indians would kill them.

Jackson Farley (his mark)

Sworn to and subscribed before me at Storms Rancho in Round Valley this 26th day of February 1860.

J. B. Lamar Chairman

Select committee on Indian Affairs

Record F3753: 451 Deposition of Lt. Edward Dillon

The statement made today by Capt. Rees before you is substantially correct.

In regard to the fences I have seen them after they had been pulled down and known that they could not have been pulled down by Indians by the fact that the rails were laid regularly aside and that wagon tracks apparently just made were seen in the gap, and that the fence was standing two hours previous to that time.

I have seen parties of which men too far off to identify them drive mules and horses into the reservation field; During my residence in this valley from observation and conversation with various parties I am firmly of the opinion that it is the object of certain parties to get rid of these Indians on the reservation for the purposes of possession themselves of the land occupied by the Government and to still further to extend

the stock range. Mr. Lamar, here asked the citizens to whom he alluded? And he declined to answer upon that is his belief and not positive knowledge

Examination Continued

I wish [illegible] [illegible] that the term hostile cannot be applied to these Indians. I have never heard of their having killed but one man in the last Eighteen months nor have I ever heard of their threatening to burn a house, I have never heard of their burning a man at the stake, nor have I ever heard on all these various attacks on the Rancherias of the white man being killed by Indians in their defense.

My orders when I first came to this valley were to arrest on good evidence any white man who interfered with the Indians or government + property, and report the fact to my Commanding officer.

My orders now are to arrest any citizen for any act for which one citizen of this state might not lawfully arrest another, in such a case my orders are to detain him in custody and report the fact to my commanding officer.

I made two unsuccessful attempts to arrest Mr. Bland after he left his cabin for the abduction of the squaw and he afterwards sent me word that he would like to converse with me on the subject and he came to my quarters and told me what I have above stated in relation to the abduction. I never attempted to arrest Mr. Bland for any other offense.

Edward Dillon
[illegible] Lt. 6th Infty

Sword to and subscribed before me at Storms' Hotel in Round Valley this the 27th day of February 1860
J. B. Lamar Chairman
of the select Committee on Indian Affairs

Record F3753: 455 Deposition of George Rees

George Rees being duly sworn says I am 49 years of age. I am overseer of Nome Cult farm – I have resided there and had charge since the latter part of September last. I think there are 5 or 600 Indians all told who remain on the Reserve all the time, there are 2 or 300 more who go and come occasionally but claim that as their home. These wandering Indians are furnished food when they are on the Reservation. Food is given to those Indians who do not work but not as regularly as those that work, those that work are regularly fed. The food given to those who work consists principally of corn, wheat, Beets, Pumpkins and Potatoes. About six or seven ears of corn per diem is the usual allowance of the work hands when they are fed on Potatoes we give them about six or seven per day. Most of the land on the farm I think is susceptible of a high state of cultivation. This farm is dependent for what is not raised upon the agent at Nome Lackee Reserve. When Indians are brought in from the mountains we give them food and clothing such as we have to induce them to remain. I think that under judicious management the farm is capable of subsisting 5 or 6,000 Indians. I have found the fence in different places prostrated and stock within the enclosure but I am unable to designate the parties who did throw it down. From the manner in which the fence has been thrown down and the rails disposed.

I could tell that it was torn down by white men, We find horse tracks and wagon tracks passing through the openings made. We have a couple of Nevada squaws upon the place who are good seamstresses whom white men have been in the habit of inducing to run off from the Reserve. Some two months ago some white men came and took them off and we brought them back, at that time we found them at the house of

Messrs. Wilsey. To punish the squaws we locked them up in a warehouse, hocked with a padlock on the outside. I think we had had them locked a day and night and the next night the lock was broken and they were taken away. We found one of them at Mr. Wilsey's the other we have not found. These women speak and understand English tolerably well for Indians, One of them is about sixteen and the other twenty years of age. They are tolerably good looking. They appear to be contented on the Reserve. I have good reason to believe that two white men took these squaws at the time the lock was broken. I know of one instance where Indians belonging to this Reserve were harbored by Mr. George Henley who refused to give them up and it was necessary to use force to obtain them. I sent a not to him for the Indian he sent word back that he would not give him up unless he was compelled to. This was as valuable a hand as there was on the Reservation.

I then went with Lt. Dillon and eight or ten soldiers to Mr. Henley's house and made a demand of Mr. Henley for the Indian, He said the Indian had gone out with a pack train and if he was there he would not give him up unless he was compelled to, and he was sorry he did not know we were coming, [and] if he had he would have been fixed for us. And that he did not consider the Indian a Reservation Indian was the reason he assigned for not giving him up. This Indian had formerly lived with Mr. Storms with three or four others. Mr. Geiger agent of the Nome Lackee Reserve ordered me to take those Indians and out them on the Reserve as they were valuable hands. I demanded these Indians of Mr. Storms, who objected to giving them up because he had raised them and did not consider them as Reservation Indians. About two or three months after this the boy came up to the Reserve of his own accord, sick and subsequently told me he wanted to stay there. Mr. Laycock came up after the boy and the boy stated to him that he came there to be cured. At that time there was no other Doctor in the valley but the Doctor on the Reserve. The boy had a squaw on the Reserve. Soon after this Mr. Storms came to the Reserve and said if the boy preferred to stay there than at his house he might stay. He remained on the reserve after this about six weeks or two months and until I found him at Mr. Henley's. This Indian is now on on the Reserve and came back because we sent word to him that if we were compelled to come after him we should punish him severely. There has been no other instance that I know of the enticing or abduction of Indians from the Reserve, nor have we been molested in any way except as above referred to. We have on the Reserve about 18 yoke of oxen, 5 or 6 Horses, 12 or 14 mules and 4 or 5 milk cows. They range inside the reservation enclosure, I have lost no stock since I have been there by Indian depredations. I have heard of some cattle and stock being killed by Indians in the vicinity. I think in one instance that men came to me and told me they suspected Reservation Indians of killing stock. Mr. Davis was the man. Mr. Davis stated that he suspected some Indians but it was a mere suspicion. Mr. Ross, Lt. Dillon and Mr. Battile went out and brought the Indians in but found no evidence of their having committed depredations. Since I have been on the Reserve I have no recollection of any application being made by citizens to Lt. Dillon for protection to their property. I think the Lieutenant would have told me if there had been. Upon several occasions after MR. Jarboe's company was organized I sent Reservation Indians to the mountain Indians to induce them to come to the Reserve, telling them if they did not that they would be killed. I never received any Indians from Capt. Jarboe's , but on the contrary they took Indians from this valley and sent them to Mendocino Reserve. From depredations that have been committed on the Reservation I think there are a good many in this valley not very favorable to the Reserve. I do not think that it is necessary that an armed force should be sent here for the protection of the property of the citizens. I think there is already a sufficient force here. I think the force that is here is needed to protect the Reserve from the depredations of certain white men in the valley and I think it is sufficient to keep the Indians in check. There were no passage when I came here through the Reservation grounds that had been used by the settlers that have since been closed. 5000 acres of land is claimed for the Reserve. There has been fencing done since I have been here, I think 4 or 5 miles. None of that fencing is off of the Reserve that I know of. We put up a [illegible] fence which extends about one mile into the hills to prevent stock from going on the Reserve. There are two settlers within the limits of the Reserve. The fence I have made obstruct the settlers from going to the passage usually. They can go by Mr. Bourne's now which is a

mile or three quarters farther than the old road. It was absolutely necessary to put up this cross fence to protect my crops. I do not consider the Yuki Indians in this vicinity hostile by any means. I do not allude to the killing of stock, I mean hostility to white men.

I know there are large bands of stock driven in to the mountains by white men which range from 7 to 10 miles from the Valley. There was an Indian boy missing from the Reserve shortly after the death of Mr. Bland and a day or two after his body was brought back by the Indians, his throat had been cut and he had also been shot. The Lieutenant, myself and two or three more endeavored to catch an Indian on the Reserve suspected of being engaged in murder of Mr. Bland and caught one and sent him down to Col. Johnson to be handed over to the authorities. This is not the Indian that Mr. Eberle brought us who escaped and he has never been seen since by white men. We have been on the lookout for him but have never been able to arrest him.

George Rees

Sworn to and subscribed before me at Storms' Hotel in Round Valley this the 27th day of Feb. 1860
J. B. Lamar Chairman
of the select Committee on Indian Affairs

Record F3753: 459 Deposition of G. W. Henley

G. W. Henley being duly sworn says

I am 26 years old, and am a stock raiser. I reside in Round Valley, Mendocino County. And have resided there since the first of January 1859. When I came I bought stock in this valley, and I was told that the citizens in the valley had been missing hogs that they supposed had been killed by the Indians, I was also told that the day before I arrived here the citizens had been out chastising the Indians.

I was a stranger here at that time and was not familiar with the habits of the Indians, and not aware of their roguish dispositions, and I was also to believe that they were committing very extensive depredations. About two weeks after my arrival here I was informed by a gentleman here that he had seen the tracks of a band of horses that he supposed had been driven off by the Indians.

In a few days after I had received this information I went out into the mountains myself south west of the valley beyond the distance where stock usually ranged and discovered the tracks of about ten horses in one band that had driven in the direction of the forks of Eel River and also in another place I found the tracks of another band of six or eight horses that had been driven in the same direction.

I followed both of these tracks for enough to ascertain that the horses had been driven off by the Indians. Mr. Storms was at that time in partnership with me and we owned about three fourth of all the horses in the valley.

In November 1859 an Indian informed by brother and myself, that some Indians over in Eel River had some hogs in their possession. We raised a party of eight and went with the Indian as a guide to the place where the Indians were encamped, attacked their Rancheria, and killed two of them, and supposed that we killed six of them and the rest then escaped. Those killed were all bucks.

We went into their Rancheria and there found the heads of seven hogs and portions of their carcasses. These hogs belonged to my brother and to Mr. Davis.

I have then sold out my interest in the valley to Mr. Storms, and did so because I found the Indians were so tiresome and was afraid that I would be unsuccessful in my enterprise.

Sometime in the month following there was some talk in this valley about raising a company of mounted men for the purpose of protecting the stock of the citizens of this valley from the depredations of the Indians.

The people here manifested an interest in raising this company in proportion to the amount of stock they owned in the valley. Several of the citizens met at this place and a statement was drawn up representing the condition of things in this valley, and embodying a request that someone be commissioned to raise a company of twenty men to protect the property of the citizens from the depredations of the Indians and this statement was sent to Gov. Weller.

I attended the meeting and drew up the statement myself.

Capt. Jarboe subsequently received a commission and raised the company and I made a contract with him to supply his company with provisions. I did so because he was not successful in making a contract elsewhere or with any other party, and rather than to have things fall through, and rather than to have the company not go into operation, I undertook to do it, but I state to Capt. Jarboe that I did not desire to do [it?] and was not prepared.

All the interest I had in this valley at that time was a few pack mules and for or five horses.

I agreed to furnish him flour at \$13 per 100 count but as to other things I told him I could not fix upon a certain price as I did not know what they would cost me, and I should have to go to Tehama for them but that I would furnish them for as low as I could.

My bill against the state for provisions and flour furnished to Capt. Jarboe amounts to about fifteen hundred dollars, and this included one beef which he got from my brother and which was charged to me.

In my opinion there is a present necessity for an armed force in this vicinity to protect the property of citizens from the depredations of the Indians. I mean an armed force independent of the US troops stationed here. From my knowledge of the relations existing between the whites + Indians in this vicinity [illegible] and from the conduct of the officers and troops in relative [illegible] I do not believe that the latter have been of any benefit to the settlers

The officers have manifested no disposition to afford any protection to the settlers, they seem perfectly indifferent to the depredations of the Indians.

The officer in charge to my knowledge never goes into the mountains to ascertain if any depredations has been committed by the Indians

The people in this valley do not countenance the killing of women and children.

I have been on speaking terms with the officer in command at the Reservation till within the last few days we are now unfriendly. There is unfriendly feeling existing between the citizens and officers they are regarded in fact as a nuisance. I looked upon Mr. Bland a quiet and peaceable man a temperate man. I have known him ever since I have been in the valley I have never known Mr. Bland to guilty of any misdemeanor or disgraceful act.

When I sold out my interest In this Ranch there was an Indian boy named Jake who desired to go with me when I located again it was agreed between Mr. Storms and myself that he should go with me he was an Indian Mr. Storms had raised and was not regarded as belonging to the Rancheria, this Indian remained

with Mr. Storms until sometime in December last and then went to the Reservation to be doctored and remained there about a week he then came to my house without my solicitation and said he had come to live with me three days after he came Capt. Reece sent an order by one of his men for his delivery. I refused as I did not consider the Reservation had any control over him, the next Mr. Reece sent Dillon and 18 armed men came down to my place and demanded the Indian. I informed Mr. Reece that the boy did not belong to the Reservation that he had no control over him as I considered and I refused to give up the boy. The boy was not in the house and they did not take him. The Indian spoken of was about 21 years of age.

Mr. Hall reputation with regard to truth and veracity with me is good and generally so with this community.

Mr. Pollard's reputations for truth and veracity is not generally good.

I never knew but one white man who was killed in an attack upon the Indians and he was a soldier under the command of Lieut Dillon.

I know of five white men who have been wounded by the Indians in these attacks.

G. W. Henley

Subscribed and sworn before me this 27th day of February 1860 at Storms Hotel. Round Valley.

J. B. Lamar

Chairman of committee

Record F3753: 462 Deposition of Lawrence Battaile

Lawrence Battaile being duly sworn says, I am thirty five next June. I am an employee on the Nome Cult farm and have been so employed since July 1858. I work at general work on the farm, when I came here Mr. Storms had charge of this farm. I first heard of the Indians killing stock in this vicinity in the Fall of 1858. I then heard of Mister Corbett and some others losing cattle and hogs, by the Indians. From what I have heard since I presume that the Indians have killed more or less stock from that time to this, principally on the South side of the Valley. During the last two months I don't recollect of hearing of any stock being killed by them. The number of Indians which I suppose to have been killed by white men in this vicinity since I came here from what I have heard in this valley is about 300 or 400. I base this estimate on what parties who have been out after Indians have told me.

I cannot estimate the number stock killed by the Indians, because the accounts of stock is frequently exaggerated.

The manner of attacking an Indian camp is to attack the camp first and after the Indians has been killed or run away, then to enter the camp and see if any evidence can be found against them.

I know this because persons who have gone out after Indians have told me of the pains it was necessary to take to surround a camp without the Indians knowing it.

I have seen during the last year several horses and cows that have died in this vicinity, some had been mired and some had died from poverty, I think I have seen some fifteen or twenty that have so since the Indians frequently come and tell me that animals have died and ask the privilege of going and getting them to eat.

I generally go and look at the carcass, to see whether the Indians have killed it or not. Those I have examined I have invariably found to have died by some other cause, than by Indians. The Indians when they take a

carcass to eat usually cut it up and take the hide, head and all to their Rancheria. If I should find these things in a Rancheria far off from where Cattle usually range I should think that they had killed the stock, unless the meat looked as if it had been [illegible]

There is stationed on this reserve a portion of a company of the soldiers under the command of Lieut. Dillon.

They have been stationed here about one year.

If any application had been made by citizens to the officer in command for protection I should have heard of it. I think there has been two or three or possibly more applications made. I know on three occasions of the officer sending out men upon these applications. I am acquainted with the Yuki tribe in this vicinity. I do not consider it dangerous for a man to travel in this vicinity alone from attacks from the Indians. I think it might be dangerous for a man to go alone about 15 miles west of this place. I have no fear of going alone to Eden Valley, Weaverville, or Tehama. I have not traveled to Weaverville alone, but have been told so by men who have traveled the route, I think the Indians south of this place are disposed to steal stock I should not call them hostile to the whites, they subsist on roots grass acorn + berries some little subsistence from game.

The Game is scarce having been killed by the hunters – the prevailing motive for killing stock is to get something to eat, although they kill some for spite – to spite some settlers who have been out killing them some told me that the Indians in Eden Valley would kill Mr. Halls stock in Eden Valley because Hall killed the Indians their women and children this was last spring. In November 1858 some settlers came to the farm and told Capt. Storms that some Indians had been killing their stock he sent for the Indians in the hills to come in a good many of them came in. The next day Mr. Storms accompanied by some of the settlers came up to the station where I was living at the time. They first got all of the Indians out of their houses and brought them up to my house. They told Juan an Indian Interpreter to pick out such Indians as he knew had been killing stock or as the other Indians said had been killing stock – Juan pointed out some 20 odd Buck Indians, Juan proceeded to pick more out when he was told to stop that, that was enough, these were placed by themselves, and the others were sent to work some after the others started to work all commenced to run, but 4 or 5 were stopped they the party then commenced firing on those running. We afterwards found (8) Eight dead bodies, one of the 4 or 5 who were stopped was hung and the remainder were put to work on the farm some time I think in October 1859 – on a Sunday morning I did see a dead Indian which upon examination I found he was killed by a bullet and I think his throat was cut –

I then sent for the interpreter learned through him from the Indians that 3 men the morning before had took the boy in the field and took him to Chas. Bowen and from Bowen to a thicket about $\frac{3}{4}$ of a mile below the corner of the field and there killed him. The deceased named was Bob. a workman on the farm and entrusted by Mr. Thompson with a rifle to go in the Mountains to hunt – he hired with Mr. Thompson off and on and when not with Thompson he lived on the farm for 9 or 10 months previous.

I think the Yuki Indians are better treated under Mr. Reese than they were before he took charge – and there are more of them on the reservation and they have improved under him, and worked better. I mean that there are more here at this season of the year than there was last year at this time.

I think there are over 200 working Indians on the farm – from my knowledge of condition things here at present I do not think that there is a necessity for an armed force to be raised or sent here for the protection of the property of the citizens – I think there is a sufficient armed force here not to protect the Citizens. If the officers in command were applied to – the cattle range is so large on the hills that I do not think a large force would prevent the Indians from killing stock occasionally.

Nor do I think that a regular organized Company would prevent, the going out of small expeditions against the Indians, the reason I think so is because, that small parties did go out whilst Capt. Jarboe's company was in operation – The forces on the farm have been pulled down often by the settlers evidently for the purpose of passing through and left down.

I think that if this Yuki tribe were all gathered in on the reservation that with proper treatment they would remain here. I think this from my personal intercourse with them and my knowledge of their habits and characters, Although they would frequently go in to the mountains – I believe such a course would conduce more to prevent depredations upon the stock of the settlers than the presence of any armed force or the occasional killing of the Indians as total extermination of them – the settlers always told me when they did go to hunt the Indians – that the Indians had killed stock – and they Generally told me that they found mean in the Rancherias – I think sometimes they told me they did not find any I am not conscious of having any feeling prejudice or Bias against any of the inhabitants of Round Valley.

In coming into this valley on the first occasion I met men with four (4) Indian boys taking them off and the third time I came on the trail I met a man taking of a girl – she afterward returned home = I never knew any citizen of Round Valley taking Indians out of the Valley to dispose of them. I have heard parties residing in this valley say that they have gone in to the mountains and taken Indians and brought them in to stay with them and from circumstances I believe it was done without the consent of the Indians, I believe some of the Indians living with the settlers are better provided for than if they were on the reservation and some are not

Lawrence Battaile

Subscribed and sworn to before me this 28th day of February AD 1860 at Nome Cult Farm
Wm B. Maxson of Assembly Committee

Record F3753: 463 Deposition of Chesley Vaughn

Chesley Vaughn being duly sworn says – I am familiarly known as Texas – I am about 20 years of age – I live in Round Valley. I have lived here since September 1858. I consider this my home. I was a member of Capt. Jarboe's company. I think I joined it about the 8th of October last. I think the company was formed to protect the stock and settlers in this vicinity from the Indians. The Indians had committed depredations on stock prior to my joining the company. I have been out to fight Indians before I joined it. In the fall of 1859 I went out after them in the mountains around Round Valley. I went once over in to main Eel River below the ford in company with Mr. Laycock. Something over a year ago I went out in company with Mr. Hall. I never was out with him but once when we found any Indian. Charles McLean, Mr. Smith, Mr. Hall, and myself were all of the company. The Indians that we were after at that time had killed some horses. I saw five or six Indians after they were dead. We fired into the Rancheria. Some were in the Rancheria and some were running when killed. We took no prisoners. I saw none killed but bucks. I saw a good many women and children who ran off while we were fighting. I think there were one or two squaws killed but I did not see them. They were killed in the fight. I never knew of anyone killing squaws or children who were prisoners nor did I ever hear anyone say that he had done so. I never knew of any one in any expedition that I was engaged in killing a squaw or child intentionally After the fight to which I have alluded we all four went to Mr. Hall's house together. I was with Capt. Jarboe's company nearly three months. He always treated, all the prisoners he had while I was with him kindly and fed them well and they stayed with him without being guarded.

Chesley Vaughn (his mark)

Sworn to and subscribed before me at Storms' Hotel in Round Valley this the 28th day of February 1860.
J. B. Lamar
Chairman of the select committee on Indian Affairs

Record F3753: 466 Deposition of George W. Jeffress

George W. Jeffress being duly sworn says I am 31 years of age, I am a Physician. I reside in Round Valley on the Nome Cult Indian farm, and am the Physician of this reservation, I have lived in this Valley Eighteen months.

When I arrived in this valley I heard that the Indians were killing stock and the whites were killing the Indians, I know that oftentimes parties were formed and went out from this valley for the purpose of hunting up Indians, but I do not know the result of those expeditions, excepting in one instance I heard a man by the name of Pat [illegible] say that he had killed three Indians that morning. This was on the first of Jan'y 1859, He assigned no reason for killing them, I do not believe that scarcely a week passed up to four months ago that I did not hear reports that Indians had been killing stock; there was a laborer, in this valley, at that time. There has been stationed on this reservation for about a year a company of from 15 to twenty soldiers, a part of the time under the Command of Major Johnson and a part of the time of Lieutenant Dillon, On one occasion application was made of Lieu't Dillon by Thos. B. Henley to send some soldiers out after some Indians who he claimed had stolen some of his hogs.

Leu't Dillon with several men went after these Indians and when they returned the Leut Dillon said that they had found the Indians that were accused and had killed two of them, who refused to come out of the rancheria. I went to the rancheria but witnessed no evidence of there being any hogs in these Indians possession.

I think the company of Capt. Jarboe was first started by S. E. Hastings and company who had a large number of stock ranging between the South Fork of Eel River and the Middle Fork + who thought the Indians were committing so many depredations on it that it was necessary to have a volunteer company for the purpose of protecting this property, and the lives of the men who they had in this employ.

By Hastings and company I mean Hastings, Hall + Robertson.

The preliminary steps of the organization of the company of Capt. Jarboe were taken by Judge Hastings at Robinsons Camp, I think in April 1859, who drew up a petition directed to Gov. Weller asking for the appointment of a volunteer force to protect the people and property in the vicinity of Eel and Round Valley.

I was there on my way to Fort [illegible] and had stopped at the place, when this occurred. I think Mr [illegible] Laycock was recommended as the Captain of the company.

After this there was a company formed under the command of Capt. Jarboe. The mountains surrounding this Valley is inhabited by Indians who are called the Yuka tribe and a portion of them the Wailaki tribe, the stock of the citizens of the valley range in these mountains unherded, to a distance of six or seven miles, of my own knowledge I do not know the amount of stock killed by the Indians, but I believe the account of stock being killed by the Indians is frequently exaggerated and this from instances within my own knowledge.

Cattle here like those in all other places die from starvation and disease and during the pest season I have seen several not only in the valley but in the foot hills outside of the valley, and I have known the Indians

on several occasions to come to the reservation and ask permission to remove the carcasses, to their rancherias to eat.

I think from my knowledge of the condition of the Indians that they kill stock for subsistence, but I have no doubt that in many instances they kill it for revenge.

The Indians have never made any foray or incursion in the Valley on the citizens. I do not consider them as hostile but rather as a set of cowardly thieving vagabonds, I do not consider that they are brave, when two white men can drive 25 of them, and shoot them down while they are running. I know the fact that white men are in the constant habit of traveling through these mountains alone.

I have never heard of these Indians attacking a white man or attacking a residence in this Valley.

From my knowledge of the condition of things in this vicinity I do not believe there exists a present necessity for the existence of an armed force here for the protection of property of the citizens. I think the citizens should take care of their stock.

I think there is no danger in a white man traveling the trails from here to Tehama or from here to Ukiah alone, but I would advise a man to go armed for I do not know what might happen, I would also advise a man to go armed who traveled in a country where there was a great many Spaniards.

I entertain no feelings of animosity against the citizens of this valley or their interests, instead I feel quite to the contrary.

Capt. Jarboe's company never brought any Indians to this reservation, and I never heard of his taking any at the Nome Lackee reservation. I think should have heard of it if he had. I have heard that he took Indians to the mountains reserve.

I never knew of an application having been made to the officers in command of the troops on the reservation for assistance, by any Citizen which was refused.

During the time I have been here I have heard of only one white man being killed by the Indians, His name was Bland, I knew Mr. Bland in his lifetime, he had a small ranch in the upper portion of Williams Valley. I cannot say anything derogatory to his character.

It is a very common occurrence here than when men want work handled to go to any rancheria in the vicinity or in the foothills and take the Indians and put them to work, in some cases there may be inducements offered to the Indians. I know Mr. Pollard, His reputation for truth and veracity is good in this community, I never heard his veracity doubted.

Upon several occasions the management of this reservation has been molested by citizens of this Valley. Fences have been torn down, and on one occasion a lock was broken and some squaws that had been confined by the overseer for punishment were abducted.

I know of a band of hogs running wild in the mountains in this vicinity on North Eel River, which were hunted and some of them killed by white men, I know this because I was one of the party myself. This was about or a little more than a year ago.

Geo. W. Jeffress

Subscribed and sworn to before me this 28th day of February of 1860 at the Nome Cult Indian farm.

Wm. B. Maxson

Assembly Committee

Record F3753: 467 Deposition of Isaac W. Shannon

Isaac W. Shannon being duly sworn says I am 34 years of age, my present occupation Farming, reside in Round Valley, have resided here since August 1857.

During the time I have been here I have lost 1 Ox – this was bout the last of August 1858. I owned at that time about 12 head of Cattle – 40 head of Hogs and 10 head of horses – since then my stock has increased to about 200 hogs 13 horses and 17 head of cattle – my stock generally ranges within 2 miles of my residence – I live near the center of the valley – I do not consider my stock in as much danger of being killed as if they were running in the hills – I appealed to Col. Henley for remuneration for my ox as my Indians told me that Capt. [illegible] and Buckaroo Sam Indians from the Reservation had killed it – Henley replied that if he paid for one he must pay for all, and he would get himself into a pretty scrape- that I had better go and take satisfaction out of the Indians myself – I do not know that the Indians are committing at this present time depredations upon stock. There is as much talk within the last six weeks about the killing of stock as there was six months ago – I am in the habit of traveling through the mountains alone – I have never been attacked by Yuki Indians but I have by the Wailakis – They reside about 10 or 15 miles northwest of this valley. This was about 1 year ago – The Yukis charged the Wailakis with driving away stock – myself and three of them went out to see about it and drive the stock back – we were attacked by them and I was slightly wounded by an arrow – since that time I have heard no charge against the Wailakis for killing stock – I have traveled armed and unarmed in the mountains among the Yukis and have never been molested by them I have been out with the citizens at three different times hunting Indians, At the time Mantle was killed we went out and killed 14 Indians – we found the Pants of Mantle in the Rancheria I consider the Yukis as low thieves rather than hostile from the fact they will not from fear molest a man but from the complaint constantly being made I think them thieves.

I know of no depredations being made by any citizen upon the Reservation.

One Indian was killed upon my ranch by some of Jarboe's men – They said he Indian had deserted them. The Indian had lived with me from April 1858 until he was killed in Oct. last – This Indian had obtained permission to go into the mountains. He was taken prisoner by Jarboe, and carried to Eden Valley. There he escaped from them and returned home.

A squaw was also wounded at the same time – another squaw that went out at the same time I have never seen since – whenever I went out I always endeavored and did get the guilty Indians. – I think the force now stationed here sufficient in numbers to protect the lives and property of the citizens – I think there is some bad feeling existing between the citizens and the troops – I can hardly tell the reason – there is some hard customers here who have always done as they please and they do not like to be restrained. I generally stay at home and mind my own business – on the 1st of January 1859 a party of citizens came to my house and said that they came to kill my Indians because some Indians had been stealing – I told them that I wanted my Indians to work for me and they must not hunt them – One of the Party stated that they had killed some Indians at [illegible] and some at Bourne's – Bourne was of the Party – so was Pat Ward – Four or five of the Party were drunk. They told me to pick out the Indians I wanted to work and they intended to kill the remainder – They left my house without killing any.

As between the whites and the Indians I think the Indians have been most abused.

W. Shannon

Subscribed and sworn before me this 28th day of February of 1860 at the Nome Cult farm
Wm. B. Maxson
Of the Assembly Committee

Record F3753: 471 Deposition of William T. Scott

William T Scott being duly sworn deposes and says. I am 28 years of age and a farmer and stock raiser. I reside in Scotts Valley Mendocino County and within five miles of South Eel River and Robinsons Ranch have resided there one year –

Then Indians in the surrounding hills [his being] there and trade backwards and forward across Eel River with other Indians they are alike the Yuki in appearance. I have seen them on the North side of Eel River. We have had some 700 head of stock in my charge since the first of June last and of this number I have never lost any by the Indians

These Indians have been in the constant habit of crossing Eel River and hunting in the surrounding country until Capt. Jarboe's company was started when they were afraid to go there. I heard Capt. Jarboe told these Indians that if he ever caught them along the River he would kill them.

I know Mr. Hall of Eden Valley that sometime in May last I had a conversation with him touching the Indian difficulties in this section of Country. Mr. Hall attributed the origin of the difficulty with the Indians to the following cause. That a little more than one year ago he employed 18 Indians in plan of pack mules to go and pack loads from Ukiah City to Eden Valley and promised to give each one a shirt in payment the distance. I think is about 40 miles. Mr. Hall said he did not get the shirts at the time to pay them, the Indians commenced complaining at not receiving the shirts and he Hall whipped two of them to keep them quiet. He said he never gave them the shirts after he whipped them as they left him and did not come back for them.

Mr. Hall said previous to this time the Indians had never killed any of their stock but soon after they killed some of their stock – then Hall [illegible] hunters with him and commenced killing all the Indians they could find in the mountains when Hall met Indians he would kill them.

Mr. Hall said the Indians had killed two fine stallions one of which cost \$600 and the other \$1000. Said he believed the Indians who had done the packing for him had killed the stallions because no other Indians would have known enough to have selected the most valuable stock.

At another time I hear Mr. Hall say that he did not want any man to go with him to hunt Indians who would not kill all he could find because a knut would make a louse.

Mr. Hall said he had run Indians out of their rancheria and put strychnine in the baskets of soup or what they had to eat.

The above stated facts transpired before Capt. Jarboe's company was organized.

A few days after Judge Hastings drove up a large band of cattle sometime in April last he said he wanted the range for stock that he could never keep stock there while the Indians were there that he would have them moved to the Reservation where they belonged. Judge Hastings said they could have the Soldiers removed and have them replaced by a volunteer company if the citizens would petition the Governor and that the citizens of Round Valley ought to do that. Said the soldiers were good for nothing in the mountains against the Indians that the Indians would have to be removed by a Volunteer Company.

Judge Hastings solicited me two or three times to sign a petition for a Volunteer Company. I told him it was nothing to me and that I did not think the Indians would be so bad if the whites would let them alone.

Before Capt. Jarboe's company came there Mr. Robinson who had charge of Hastings stock applied to me and said if he could get five or six men to go with him that there was about three miles down the River a Rancheria, that they could kill off the old Indians and get the young ones and make something by it. That he was afraid these Indians would kill his stock if they had not already. Mr. Robinson afterwards told me that he had been to the Rancheria [illegible] and killed some of the and took one Indian girl that he would have killed them all if it had not been for a man by the name of Howard who went with him who claimed some of the Indians, and presented him for killing them. Robinson said Howard should not go with him again for he believed Howard was as bad as the Indians and that he meant to kill all the Indians on this side of the River he could find. This was prior to the formation of Capt. Jarboe's Company.

I resided at Scotts Valley with my Uncle we had a large amount of stock never lost any and never felt any danger.

I frequently hunted slept out along by a large fire and picketed out my horse and was never disturbed by Indians camped within a half a mile of Indians camped within a half a mile of Indians.

I have lost about fifty head of stock from natural causes but none from Indians. As I believe some have died from getting into gulches want of good feed some from diseases. I know Indians eat the carcasses of animals found dead.

I saw three head of Hastings cattle dead from poverty or starvation on his range in August last.

I was solicited by Capt. Jarboe to come with him or join his company with 2 others residing with me he Capt. Jarboe said we could all three join and stay part of the time at home and part of the time with the company and our pay would go on all the same. Deponent told him he thought that would be swindling the state. Capt. Jarboe said the amount would be so small that it would never be missed. I told Jarboe that I did not like from report the manner he was conducting the war, he requested me to go a few days with him and see for myself. I went with him remained for five days Capt. Jarboe's orders to his men were to kill all the Bucks they [illegible] could find and take the women and children prisoners and if they got sight of an Indian never to lose sight of him as long as they could follow the track. The first we met while I was with Capt. Jarboe were two Indians about one half mile distant appeared to be gathering acorns unarmed. Capt. Jarboe send his men to surround them and be sure to get close enough to make good shots and kill them one was killed and the others escaped, this was on the Range claimed by Judge Hastings five miles from Eden Valley – on one other occasion a part of Jarboe's Company pursued two Indians the Indians hid in the rocks near the River they surrounded the place and sent his dog after the Indian to drive him out of the rocks the Indian shot the dog dropped his bow and arrow and plunged into the River and was shot in the water while endeavoring to escape. The Indian was hunting as he had the head of a deer stuffed used by them while hunting.

The Indians I think kill stock for the purposes of using it for food owing to the larger number of cattle in that section of country their usual resources to a great extent had been cut off they Indians eat clover + wild oats grass seeds and acorns.

I think an armed force is necessary to protect the stock. I think the Indians will have to be removed as they cannot subsist with that amount of stock in that section of country consuming the clover grass acorns and

wild oats which they have hitherto subsisted on – an armed force would be useful only in protecting the stock by exterminating the Indians

There is hardly any food in the mountains the Indians can get.

I know that Mr. Hildreth and Robinson belonged to Capt. Jarboe's company and that most of the time were on the Range attending to the stock on Hasting's Range.

The Beef for Jarboe's Company was mostly killed from Hastings Cattle and one day while they were killing some I heard Jarboe tell Robinson when they guessed a beef to weight 400 he Robinson might put it down 700 as the state would have to pay the bill anyhow, they had no scales to weigh beef and usually guessed at it.

Capt. Jarboe told Robinson that when his men stopped there and eat to charge six bills per meal.

Capt. Jarboe made a proposition to me to take some goods as a sutler to supply his company such as liquors, sugars oysters sardines crackers [illegible] shirts + cards and other articles Jarboe said he would not be in the business that I should charge a good price that he would collect the money once the profits should be divided between Jarboe Robinson and myself and further that I should share with them the profits on the beef over and above the regular price – Capt. Jarboe said he would collect my bills and charge them as bills for provisions

The Indians often visit my house I have treated them kindly and in a conciliating manner and to this fact I attribute the safety of my stock from Indian depredations. I believe that with a fair degree of kindness towards the Indians these depredations would generally be avoided much of the stock that has been killed has been killed through revenge as I believe

I have men offer to give me Indian children to send below if I could get in return for them presents to the value of fifty dollars as they said it was against the law to sell them.

W. J. Scott

Sworn to and [illegible] before me this 2nd day of March 1860 at Cloverdale, Sonoma County
Wm Maxson
Of the Assembly Committee

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APPENDIX E: TRANSCRIBED LETTERS, PETITIONS, AND MEMORIALS³³¹

Record F3753: 354 G. H. Woodman to Gov. Weller

To his Excellency Milton S Latham
Governor of the State of California

Sir

in behalf of the residents of Long Valley (and vicinity) of Mendocino County and as a citizen of aforesaid locality to beg leave to make the following representation relative to the Indian disturbances that there exist.

³³¹ The following letters, petitions, and memorials were transcribed from longhand originals held in the State Archives of California, Office of the Secretary of State. Where possible, I have corrected spelling in the pursuit of readability. In situations where text was impossible to transcribe, [illegible] is used to indicate this case.

The Indian tribes are now and for some time past have been constantly committing depredations upon the persons and the property of citizens who have given no cause for their hostility. Since about the 20th of September last they have killed three white men and about one hundred and fifty horses and about three hundred head of cattle. They have made frequent attempts to fire on our houses and announced their determination openly to wage a war of extermination against the whites and their stock. The different tribes having formed an alliance are now sufficiently powerful to cause us the most serious apprehension for the safety of our selves + families indeed unless we have some protection against the outrages of these savages we will be compelled to abandon our houses. Since the commencement of the hostilities the men of Long Valley formed/maintained themselves into a company for their mutual protection and performed alternately the duty of guarding and protecting themselves against the incursions of the Indians, these duties they are unable to longer to perform and therefore ask your Excellency to call the attention of the Legislature to the subject of our grievances and afford us whatever relief is in your power. It is my opinion that a company of fifty men can in ninety days completely subdue these hostile tribes and restore peace + tranquility. The foregoing facts I affirm are correct and true.

G. H. Woodman

Record F3753: 356 Lt. Dillon to Maj. Johnson

Round Valley, Cal

March 23, 1859

Major,

Sir:

I have the honor to report, that on the 11th inst, I went with ten men to look for the Indians supposed to have stolen the hogs, mentioned in my last letter to you.

On the morning of the 12th, I discovered fresh Indian sign[s], going from that part of the valley from which the hogs were taken, and following the trail came upon a hut some 12 miles from this place, and near the forks of the Eel River.

I surrounded the hut, and told the Indians, through a citizen, who accompanied me as guide and interpreter, that I wanted them to come out and go to the Reservation with me, and that I did not intend to hurt them. The squaws came out, but the men could not be induced to do so. I then ordered one of the men to take a pole and push down the top of the hut, expecting that would bring them out; in doing so the man "Patterson" exposed himself and was shot with an arrow in the breast, as I then thought mortally wounded; not choosing to expose the men more, I made the squaws set fire to the hut, which caused the Indians, 2 in number, to break to run, but they were both shot; one before he had fairly got out of the door, and the other within a few paces of it. I was very anxious to talk to these Indians without shooting them, but under the circumstances it could not be avoided. I do not blame the Indians however, for I supposed they expected to be killed anyhow, and as they have been deceived before, it is not strange that they should be incredulous of promises of safety.

I had to leave Patterson, out there as the road was terribly rough, and I was afraid to bring him in. I came in immediately, and sent the Doctor out that night, and employed the man the man who went with me as guide; to show the doctor the way. The wound though severe, was pronounced by the doctor not dangerous, and the man has recovered as far as to be able to ride in yesterday: he is still weak and suffers some pain, but I hope in the course of two weeks, will be entirely well; the arrow entered between the 3rd and 4th rib, about two inches over the heart, and [had] the Indian been on a level with, instead of being below the man, it would have penetrated the lung; but entering at an angle it only grazed it.

The day after this thing happened, Mr. Hall came in from Eden Valley, and told me that the Indians several days previously had killed 3 cows, and a fine stallion which cost, he says, one thousand dollars.

I told him that provided the settlers would not make up a party to hurt and kill these Indians, I would try and bring them in, or at least drive them off some distance, but if they intended to take the matter into their own hands, I would have nothing to do with it. He proposed to go with a party of citizens down one side of the River, while I went on the other; this I agreed to do, and went out accordingly, I did not see an Indian, and the water was too high to cross; neither did I hear anything of the other party, but they have returned, and I understand one or two Indians, without bringing in any, which they said was their object.

The Storms found an arrow in one of his horses a few days since, and I have no doubt, but that some stock has been killed by the Indians this winter. On the day before yesterday, Mr. Battles at the upper station, was out in the field and saw a man going towards the Rancheria; shortly afterwards he heard cries in that direction, and making towards it, saw a man get on his horse and run off; he is almost sure he can identify the man, as he was within one or two hundred yards of him. The Indians then told him that this man had come up and forcibly taken a little squaw off behind some bushes, where Mr. Battles found her lying, her person torn and bloody.

The Indians say that this man drew a knife on some of them who attempted to interfere, and that they knew him.

Mr. Battles started over to the cabin of the man he believed it to be, but nobody was to be seen, and everything indicated that the owner had taken hasty departure. There is no doubt that between the Indians and Mr. Battles, the perpetrator of this fiendish act, can be identified; but I told Capt. Storms that I could not do anything, for the man lives off the reservation: even if he was on the Reserve, I do not see that I could do anything under my last order, for I am not aware that any citizen has a right to arrest another, under any circumstances, except perhaps when he is an eyewitness to a capital offence.

This man's name is supposed to be Murphy, being about a mile from Mr. Battailles' house, and the victim is a Yuki girl some 12 or 14 years of age, perhaps younger.

Although in neither of the written orders received, is anything said about my affording any protection to the citizens, or taking any means to punish Indians, who commit thefts; yet I consider myself obliged by the verbal orders given me at first, to do anything in my power to put a stop to their depredations.

I am unable however to do more than take a party out in the mountains occasionally, with the expectation of bringing some of them in or at least of frightening them off.

I would like to have one or two mules to pack on such occasions as these, and have on previous occasions had to use Indians and feed them.

I also want to make a garden here if there is any possibility of my being here this summer, and should like to have a variety of seeds, and plenty of them, especially melons of all sorts, which they say grow finely here; the mules in this case will be needed to plough. The men want some occupation badly, and I think it would be a good plan even if we derive no benefit from it; no time should be lost in beginning it. I will give an order on Carlin for twenty dollars the amount I agreed to pay the man for guiding the doctor back to place at which Patterson was shot.

April 2nd, Smith arrived here day before yesterday, with his pack train, he told me he saw Lieut Carlin as he went down, and that you then expected to send me an express in a few days.

I have said above that the party that went to Eden Valley to hunt Indians, returned having killed two; this is a mistake, for only a portion returned, leaving the larger number in Eden Valley, where they have been nearly two weeks hunting Indians, and although I cannot of course make the statement as a fact, yet it is currently reported here, that two hundred and forty Indians were killed, and I have been told by a reliable man as there is in the valley, that one of the party had said they killed that number. Mr. Hall was here a day or two since, and asked me if I intended to do anything in the matter; I told him I could do nothing, and would do nothing; that after his exploit, he could expect no sympathy, if Indians should kill every head of cattle or stock in the valley. He said that the citizens intended to organize a company, to go out and hunt the Indians to extermination; and I have no reason to doubt that it will be done. On last Sunday Thomas Henley went over on Eel River, with some of his employees, and finding some huts surrounded them, and sent an Indian in, to tell the Indians to come out and come in to the Reservation; that they would not be shot; four bucks came out, but one of them professed to be lame and unable to walk; whereupon Mr. Henley, either shot him, or had him shot; the other three Indians came back with him. Mr. Henley does not charge these Indians with having stolen anything from him, but says they were too near to him, and is afraid they will steal; he says he killed the Indian because he looked like a bad Indian, and he did not want to leave him. The three Indians who came in, say that all the rest of their band would come in, but they are afraid. I told the interpreter to tell them to go out, and tell all the Indians they could find, to come in, or they would be killed by the citizens, but would be protected here. Night before last fifty seven came in, and I think it likely that before long more will follow.

April 4th. Last night some forty Indians came in, and they say that all the Eden Valley Indians will come in. I received this morning the within note from Mr. Hall, and shall send a few men over to Eden Valley to stay till I receive some instructions from you in regard to this matter. I hardly think that he is in any danger; yet I am sure, that should I refuse to comply with his request, some handle would be made of it. I shall give the men a week's provisioning and direct the corporal to return at the expiration of that time, unless he receives orders from you to remain or unless the Indians show a disposition to attack Hall. It would be very difficult for me to send them rations from this place, as I should have to hire horses to get them across the River, which is barely fordable. I shall have to hire horses now for that purpose, as well as one to take the man who carries this letter; for the horse I have is unfit to go, having been hurt when last in Eden Valley. Should the River get low enough for the men to wade it, I may go to Eden Valley in a few days, and try to get those Indians in, for I think they will all be killed if they do not come in.

Very respectfully your obedient servant
Edward Dillon,
2nd Lieutenant, 6th Infantry
Commanding Detachment [F?] 6th Infantry

[To:]
Brevet Major Johnson
6th Infantry Commanding
Fort Weller,
California

Record F3753: 360 Petition of Round and Eden Valley Settlers to Gov. Weller
Robertson's Camp South Fork Eel River April 24th 1859

To His Excellency Govr Weller

The undersigned residents of Round and Eden Valley submit the following statement that the country on and between the North & South Forks of Eel River surrounding Eden Valley and bordering on Round Valley is inhabited by a numerous tribe of hostile Indians known as the “Yukis” who have been for the last two years not only at open war with the white inhabitants but with all the other tribes of Indians in this region of country.

These Indians have within the last two years killed at least seventy white inhabitants have destroyed at least \$40,000 worth of property of the Inhabitants of Round Valley and within the last two months at least \$5000 worth of property of Eden Valley.

That these Indians attack on sight every man who travels over this country unarmed – That the inhabitants have exhausted all means of defense against the depredations of the Indians & will be compelled to abandon this country unless some remedy is immediately adopted by the state authorities.

That the only remedy which the undersigned can suggest is a small company of volunteers not to exceed twenty men armed with rifles and revolvers. That this company can be raised in one hours’ notice and we would recommend Dryden Laycock or some other person, be elected by the Company as a suitable person & commander.

The services of this company would not be requested for a period of over three months.

9 signatures, including Hall and Robertson

Record F3753: 361 Petition of Round and Eden Valley Settlers to Gov. Weller

Robertson’s Camp South Fork Eel River April 24 1859

To His Excellency Gov. Weller

The undersigned residents of Round and Eden Valleys submit the following statements that the country on and between the North and South forks of the Eel River surrounding Eden Valley and bordering on Round Valley is inhabited by a numerous tribe of hostile Indians known as the “Pau Pao” who have been for the last two years, not only at open was with the white inhabitants, but with all the other tribes of Indians in this region of country. These Indians have within the last two years killed at least seventy white inhabitants, have destroyed at least \$40,000 worth of property of the inhabitants of Round Valley, and within the last two months at least \$5000 worth of property of Eden Valley.

That these Indians attack on sight every man who travels over this country unarmed. That the Inhabitants have exhausted all means of defense against the depredations of the Indians & will be compelled to abandon this country unless some remedy is immediately adopted by the State authorities.

That the only remedy which the undersigned can suggest is a small company of volunteers not to exceed Twenty men, armed with Rifles and Revolvers.

That this Company can be raised in an hours’ notice, and we would recommend Dryden Laycock or some other person selected by the company, or a suitable person to command it. The services of the Company would be required for a period of over three months.

9 signatures, including Hall and Robertson

The undersigned having been in this country about two weeks personally knows the facts stated by the [illegible] and others to be true.

Eel River Country
April 24, 1859
Thos J Henley
Sup Ind Aff
Jos Tobin
S. C. Hastings

Record F3753: 362 Gov. Weller to Gen. Clarke

Executive Department
Sac April 29th 1859
Genl Newman S. Clarke
General Commanding Cala Division U.S. Army

Sir

I send herewith a copy of a petition signed by a number of the citizens of Mendocino County in regard to Indians difficulties. It is represented to me the Federal force now stationed in that county is wholly inadequate to give protection to the whites against hostile Indians.

I desire to ascertain the number and character of the troops now in that county and whether (if the present is insufficient) you can increase the force so as to give security and protection to the people in Round and Eden Valley.

Very respectfully
Your Obedient Svt
John B. Weller

Record F3753: 363 S. C. Hastings to Gov. Weller

San Francisco May 4th 1859

Gov Weller

I have a report direct from Eden Valley of further depredations by Indians since I left there.

The Indians attacked and killed 2 Mares + colts picketed at Mr. Collins, there being a Post of Major Johnsons Co of Infantry in the Cabin at the time.

In do not think that the Indians would have done this but for the presence of the troops who you will see from Leiu Dillon's Report are the friends of the Indians, and appear to be engaged in a campaign against American Citizens settled in this Country.

Now sir I have purchased of the State of California Eden Valley with School Land Warrants. I have by the laws of this State the right of possession – I demand protection of the State.

I am attacked by Indians in front and the tax collector in the rear. If you delay for reply from Genl Clarke I fear that very serious depredations will be committed.

I did hope that at least our State Government could afford to investigate the grievances which I have laid before your Excellency, If thought advisable to send some Gentlemen to Eden + Round Valleys to make such an investigation I will be happy to afford him any facilities – I may be found at Benicia.

Yours Truly + c
S. C. Hastings

Record F3753: 364 Lt. Churchill to S. C. Hastings

Office of General Comdg Dept of California
San Francisco, April 30, 1859

Sir,

In reply to your letter of this date I have the honor to inform you that the disposition of the troops now in California is as follows:

At Fort Umpqua.....1 Company 3rd Artillery
“ “ Humboldt & vicinity.....2 Companies 4th & 6th Infantry
“ “ Weller.....2 officers & 40 men “ “
“ Round Valley.....1 “ & 16 “ “ “
“ Mendocino.....20 men “ “
“ Benicia Barrack.....1 Company “ “
“ Fort Tejon.....1 “ 1st Dragoons
“ “ Yuma.....3 companies 3rd Artillery
On Mohave Expedition ..7 companies 6th Infantry
Escorting Major Prince to Dept of Utah...1 company 1st Dragoons

I am unable, being only in charge of this office, to state whether or not any of the troops are unemployed.

Genl Clark, Commanding the Department is now in Los Angeles also Major W. W. MacKall, assistant adjutant General.

I am Sir, very Respectfully
Your Obedt Servt
Charles C. Churchill
1st Lieut 3rd Art
In Charge of Office

To: Hon S. C. Hastings, &c &c&c San Francisco

Record F3753: 365 S. C. Hastings to Gov. Weller

San Francisco, April 30, 1859
Gov. Weller

Dear Sir,

I am here in the Adjutant Generals office and am told that no reply will be made to your letter of yesterday until it is forwarded to Genl Clark who is in Los Angeles in command of his troops against the Mohaves - & to get the information before you which you request, I have addressed a note to Charles Churchill, 1st Lieut, who is in charge of the [illegible] [illegible] office & he has given me the reply which I send to you.

If Genl Clark receives yours and his reply would be the same

The fact is now established in a Semi Official manner it is true that the Government of the United States has not any disposable forces in California capable of moving against the Yuka Indians with any prospect of success for as I said to you yesterday, And as a Military man your Reserved Infantry cannot attack Indians scattered over the Mountains of Eel River in small bodies concealed in Chaparral, Cactus, & [illegible] bushes

You will see that all the forces are now occupied even the company of Infantry under Major Johnson are needed to protect the Round Valley + Mendocino Indian Reservations.

I hope you will send some gentlemen [illegible] to Round Valley, with power to put into the field the small force of 15 or 20 men volunteers. Ask this gentlemen come down on the Monday night boat to San Francisco I will meet him on board at Benicia to come down with him. He will have then to go to Petaluma & can take the Stage to Cloverdale Where he can procure a horse. I think the emergency is great for immediate action & that delay is equivalent to defeat. I will see that the men are provided with ammo

I know that the people of Round Valley will soon be looking daily for orders from your Excellency for the employment of the volunteers for their relief.

Your Obt Svt
S. C. Hastings

Record F3753: 366 S. C. Hastings to Gov. Weller

San Francisco, May 4th 1859

Gov. Weller

I have a report direct from Eden Valley of further depredations by Indians since I left them

The Indians attacked and killed 2 Mares & colts picketed at my cabins There being a part of Maj Johnsons Co of Infantry in the cabin at the time

I did not think the Indians would have done this but for the presence of the troops who as you will see from [illegible] Lieu Dillon [illegible] are [illegible] friends of the Indians and appear to be engaged in 6 campaigns against the American citizens settled in this country.

Now sir, I have purchased of the State of California Eden Valley with school land warrants – I know by the laws of the state the laws of possession. I demand protection of the State. I am attacked by Indians in front and the tax officers in the rear.

If you delay for reply from Genl Clark I fear that very serious depredations will be committed. I did hope that at least our State Government could afford to investigate the grievances which I have laid before your Excellency.

If thought advisable to send some gentlemen to Eden + Round Valleys to make such an investigation I will be happy to afford him any facilities I may be found at Benicia.

Yours respectfully sir
S. C. Hastings

Record F3753: 367 S. C. Hastings to Gov. Weller

San Francisco April 30, 1859

Gov. Weller

Dear Sir,

I am here in the Adjutant Generals Office and am told that no reply can be made to your letter of yesterday until it is forwarded to Genl Clark who is in Los Angeles in command of the Troops against the Mohaves + to get the information before you which you want I have addressed a note to Charles Churchill First Lieut who is in charge of the Adjutants Genl Office + he has given me the reply which I send to you. If Genl Clarke were present the reply would be the same.

The fact is now established, in a semi Official manner it is true that the Government of the United States has not any disposable forces in California capable of moving against the "Yuka" Indians with any prospect of success for as I said to you yesterday, and as a military force you know Infantry cannot attack Indians, scattered over the Mountains of Eel River In small bodies concealed in Chaparral Canons + chemere bushes.

You will see that all the forces are now occupied even the Company of Infantry under Major Johnson are needed to protect the Round Valley + Mendocino Indian Reservations. I hope you will send some Gentlemen immediately to Round Valley with power to put into the field the small force of 15 or 20 men Volunteers. Let this Gentleman come down on the Monday nights Boat to San Francisco. I will meet him on board at Benicia + come down with him. He will have then to go to Petaluma can take the Stage to Cloverdale, where he can procure a Horse.

I think the Exigency is great for immediate action + that delay is Equivalent to defeat. I will see that the men are furnished with arms. I know that the people of Round valley will soon be looking daily for orders from your Excellency for the employment of the volunteers for their relief.

Your truly +c

Record F3753: 368 Gen. Clarke to Gov. Weller

Headquarters Dept of Cala

San Francisco May 13, 1859

Sir,

Your letter of April 29th was received by me at Los Angeles, having previously sent you a report in relation to the Indian troubles in Mendocino. I delayed my reply hoping that I would hear further from you on that subject.

I have now the honor to inform you that in Round and Eden Valley I have a detachment of sixteen men and on Russian River another of thirty.

The detachment has been in Round Valley since the 1st of January last, and the officer in command has not been able to ascertain that a single white person had been killed since his arrival, and I therefore argue that there is reasonable protection.

I have troops at my disposal in California amply sufficient to protect the citizens of Mendocino but until satisfied that their presence is needed I do not feel authorized to add to the public expenses.

I am Sir,

Very Respectfully

Your Obt Servt

F. S. Clarke
Col. 6th Infantry
Bvt. Brig Gen.
Comdg

His Ex. J. B. Weller
Governor of State of California
Sacramento

S. C. Hastings

Record F3753: 370 Petition by Citizens of Nome Cult Valley to Gov. Weller

Nome Cult Valley
June 10th 1859

To His Excellency
John B. Weller
Governor of California

Sir,

We the undersigned Citizens of Nome Cult Valley Cal. knowing that various statements have been made in regard to Indians affairs at this place, desire to state our opinion in regard to it.

It is well known that the Indians in this vicinity have destroyed a very large amount of property the value of which it is impossible to estimate accurately – They have also killed a number of men to our certain knowledge, and traces have been found of their having killed others. We would also state that it is our candid opinion that the representations made to your Excellency by Chas. H. Bourne, W. Robinson and others in their memorial to you are true and correct as far as can be ascertained. We would respectfully ask that the desired aid and protection be Extended to the Citizens of this Valley.

Ever since the settlement of this Valley the Indians have committed their depredations with a degree of success and boldness hardly credible to one not cognizant of the facts.

In several instances they have come to the very door of our houses and taken away as many as twenty head of Hogs out of the Corral, and driven them off. They have also killed stock in the Valley in the day-light and have committed innumerable depredations under cover of night.

At first it was the policy of the Citizens to treat them leniently in the hope of getting them to go on to the Reservation and live peaceably. But finding that would not do, we adopted more sever measures, and to those unacquainted with the circumstances that controlled our actions it may seem that we have been unnecessarily severe, yet we feel that we have done nothing but what necessity actually compelled us to do.

When the detachment of troops now here, first came to this place, Everyone was highly pleased at their presence, for we believed that we would then be relieved of the troublesome and unpleasant duty of guarding and protecting our property against the hostile Indians, but so far from that being the case, the indifference manifested by the Officers in command has encouraged rather than checked the Indians in their outrages.

When Major Johnson came here he did not ask the cooperation of the Citizens, but told them that he would manage the matter in his own way, though he kindly gave us Permission, in case any stock was driven off by the Indians to follow them if there was a chance to recover the property, but we were not allowed to molest the Indians.

It was Major Johnsons professed idea to bring the Indians into the Reservation and detain them there, but there has been only two efforts made to carry out that policy since the troops came here and they have succeeded in bringing in only Eighteen (18) Indians all told; three fourths of whom were squaws and children. The whole course of conduct of the Officers in charge at this place has been strangely inactive and they have manifested no disposition to subdue the Indians, or afford any protection to the Citizens.

In view of the above facts we cannot reply upon the U.S. authorities for any assistance, and we are reluctantly compelled to call upon your Excellency for protection of our lives and property.

We are anxious that some steps should be taken in this matter before the scenes they have recently been enacted in the Sacramento Valley on Antelope Creek are enacted here. The Indians have already a good many arms among them, and they are growing worse as they become Enlightened by contact with the whites; and unless some steps are taken very soon to subdue them, in some future time it will cost a great deal both of money and lives to do it. The raising of a volunteer company, we regard as the most Effectual and speedy manner of bringing these difficulties to a close; and we hope that your Excellency will Exercise your authority to cause a Company to be raised.

In regard to the memorial gotten up at this place, denying the truth of the statements made by C.H. Bourne, W. Robinson and others we would simply say, that it was signed by only seven Citizens of the Valley. The remainder of the signers are employees on the Reservation, nonresidents of the place and Soldiers.

When the news was first received here, that authority was given to raise a Volunteer Company, these same Citizens above referred to were among the first to come forward and Offer their services, And they were very desirous to have the Company raised. What has caused such a sudden change in their views and opinions we are unable to ascertain.

Twenty-two signatures (evident on copy)

Record F3753: 371 Memorial of the Settlers of Eden and Round Valleys to Gov. Weller

Eden Valley & Vicinity

July 11th 1859

The undersigned have agreed by unanimous consent to select Walter S. Jarboe Esq as Captain of our company of volunteers against the Yuki Indians in place of Dryden Laycock who declines to serve.

17 signatures – includes Henley, Bland, Hall, Robertson

At a meeting of the citizens of Eden Valley and South Eel River at Robertson's Ranch July, 1859 it was resolved – That the attack of the Yuki Indians upon E.L. Hall on the 8th last and upon [illegible] on the 7th that and their raids cause such destruction of horses and cattle demands immediate action –

That Dryden Laycock having declined to organize a force against these Indians we unanimously recommend W. S. Jarboe, Esq. as the Capt. of an Expedition against the Indians (in whom we have all confidence) –

That all persons present be requested to sign the paper herewith presented who are willing to serve under Wm. Jarboe

That these proceedings be [illegible] and forwarded immediately to His Excellency Gov. Weller

Wm Robertson

[Illegible]

[Illegible]

[Illegible]

Record F3753: 379 William Robertson to S. C. Hastings

Eel River Aug 26th 1859

Well Judge since I wrote to you a few days I have been all amongst the cattle and horses and have found several dead and a good many wounded with arrows and some more missing horses [illegible] I think the Indians kill several head every day I miss a good many of our cattle they have killed some of our [work?] cattle I think I can't find them I am going to Eden tomorrow again and shall get all the stock and bring it to the Hildreth Ranch I think it is some better but the Indians will soon follow they are determined never to let up as long as there is any animal left Capt. Jarboe and Hildreth have not returned yet when I get to Eden tomorrow I will send for Hildreth to assist me in getting the stock all over I don't suppose the Henley Boys will come. Judge if you knew how much we lost a day here you would come here mighty quick or tell me to move the stock some where I have nothing to lose but I don't want to lose for you and I won't If you will take my advice If I had them where I could stand guard over them I would rather than lose all of these. Write to me immediately & tell me what to do. I could tell you more but it [illegible]

But Still Respect Yours

Wm Robertson

Record F3753: 382 Gov. Weller to Jarboe

Executive Department

Sacramento Sept 8th 1859

W. S. Jarboe Esq

Sir,

I deem it proper to instruct you that your operations against the Indians under my order of the "6th" must be confined strictly to those who are known to have been engaged in killing the stock and destroying the property of our citizens.

Human life must not be taken when it can possibly be avoided and the women and children under all circumstances must be spared. If prisoners are taken they must be turned over to the Superintendent of Indian Affairs at Mendocino.

The information which I have secured satisfies me that there is only a small band of these Indians engaged in committing outrages upon the whites and you should be careful to discriminate between the innocent – and the guilty – an indiscriminate warfare against the whole tribe could not be justified by the facts now in my possession.

Very Respt

Your Obt Sr

John B. Weller

Record F3753: 385 Jarboe to Gov. Weller

Eden Valley Sept 16 1859

To His Excellency John B. Weller

I have the Honor to report to your Excellency I have this day enrolled in the service of the State Twenty men, I believe them to be insufficient to accomplish the heavy task now before them.

If I had forth men in the field, I could in a very short time take every hostile Indian out of Shasta Mountains.

I have the honor to be
Your most Obt Servant
W. S. Jarboe

Record F3753: 388 Jarboe to Gov. Weller

Elk Creek Oct 1st 1859

To his Excellency John B. Weller Governor of the state of California

I have the honor to report that on the 20th day of Sept I left Eden Valley and took a Northwest course on the 25th I had a fight near the forks of Elk River in which I killed twenty five Buck Indians and took 20 prisoners the Indians had three Horses in camp that they had just killed. I had a valuable dog killed by an arrow was all the loss I sustained.

On the 28th I surprised a party of 80 Indians on South Eel River about 12 miles from Eden Valley and took them all prisoners without the fire of a gun. I have sent them all to the Mendocino Reservation.

The country inhabited by the Indians is extensive and they have all declared their determination to kill stock and the whites as long as they can. I have just received a petition from the citizens of Long Valley calling on me for help. It is 8 miles west of the country I am ordered to range in by your Excellency I have observed your instructions strictly and have only 20 men at my command hardly sufficient to protect the country I am order to range in. With an additional 20 men I think I can give sufficient security to life and property and prevent any future depredations.

A great many Indians have left the South Branch of Eel River and have collected on mane Eel River about 25 miles North West of Long Valley they have prepared to fight and sent me word to come but they are grate cowards and I think after the first [illegible] I will be able to take them prisoners.

Respectfully
Your Obedt Servant
W. S. Jarboe

Record F3753: 390 S. C. Hastings to Gov. Weller [undated]

If these documents were given to me yesterday at Ukiah City I have lost them this morning in coming over the mountains but possibly I left them at the clerk's office in Ukiah City and will be sent to you by post. I suppose Capt. Jarboe will report to you the conflict with the Indians in Long Valley –

I am reliably informed that the Indians followed Jarboe's troops to the cabins of Long Valley discharging [illegible] to—

After the conflict the people elected Jarboe their captain of which I presume you are duly informed – Jarboe was not present and his competitor was [illegible] Jarboe beat him two to one – The truth is Jarboe is the only man in this mountain who can command the volunteers for if you [drop] him 100 captains will spring up (all brave)

I think that Jarboe's company should be filled immediately and if your excellency deem it admissible to do so & will forward your orders to my address at Benicia I will immediately send for express Capt Jarboe I mean I will employ a messenger as [illegible] to carry the orders [illegible]

Your Srvt +c +c
S. C. Hastings

P.S. Offices who signed the statement which I supposed as my [illegible; four names given]
SCH

Record F3753: 392 Jarboe to S. C. Hastings

Round Valley Oct 7th 1859

Friend Hastings

Sir I have just arrived here with 17 of my men and will attack a Rancheria on the 9th Just 25 miles north of this place supposed to contain 500 Wailaki Indians. Woodman has had 200 Horses drive off by them and I think I can recover what is not killed if I succeed in Whipping them.

John Bland of this Valley was killed last week my force is [insufficient?]to chastise all the Indians in this portion of the country in six months.

I think I will have to Build Winter Quarters some place north of this as the Indians are gathering in great numbers north.

I haven't time to give you all the particulars at present will write again soon.

Yours Respectfully,
W. S. Jarboe

Record F3753: 398 Jarboe to Gov. Weller

Eden Valley Oct 16th 1859

To His Excellency John B. Weller

I have the honor to report that on the 12 Inst I found the remains of John Bland who was killed by the Yuki Indians on the 7 Inst 25 miles North of Round Valley. I attacked the Indians encampment the same night killed eleven Buck Indians took six Bucks and twenty seven squaws prisoners. They confessed killing Bland by burning him at the stake also killing a Number of Horses.

Arrived here on the 15th with the prisoners on route for the Mendocino Reservation About 12 O clock last night they attempted to kill the guard and made their escape they failed killing the guard and up to the present I have only been able to retake fourteen of them E.M. Haurell a private in my company deserted on the 4 Inst.

I find it very difficult to take prisoners and when I do take them the only way that I can keep them is by tying them and march them tied together. I have called on Lut. Dillon of Com D 6 Inf Round Valley According to the requirements of your Excellency to cooperate with me against the Indians for killing Bland and other outrages against the whites but he passionately refuses to aid me in chastising the Indians for any offense.

I have the honor
To remain your Most
Obed Servant
W. S. Jarboe

Record F3753: 399 Gov. Weller to Jarboe

Executive Department
Sac Oct 23rd 1859

Capt. W.S. Jarboe

Sir,
Your communication of the 16th inst has been received. In consequence of some information which I have received from Mendocino County I must again call your attention to my instructions of the 8th Sept. Your company was organized to protect the lives and property of the Citizens in certain localities and not to wage a war of extermination against the Indians. You will therefore place your command upon the defensive and take care that none but the guilty are punished. I cannot believe that the great body of the Wailakis have been engaged in committing outrages upon the whites and the innocent ought not to suffer – A war of extermination against the whole tribe because of the acts of a few bad Indians would be wholly unjustifiable. If you have any prisoners in your possession who participated in the recent murder to which you refer they must be turned over to the civil authorities for trial.

Respt
Your Obed Sr
Jms B. Weller

Record F3753: 400 Jarboe to Gov. Weller

Robertson's Ranch Oct 28/1859

To His Excellency John B. Weller

I have the honor to report to Your Excellency That on the 23 Inst I had an engagement with an encampment of Indians a few miles North of Round Valley killed 9 and took 30 prisoners they had a portion of a Cow they had killed belonging to Master Cabot of Round Valley

On Tuesday the 25 I surrounded a Rancheria of 70 Indians they were well prepared to fight I treated with them and on Wednesday they surrendered and started with me for Mendocino Reservation ten of them broke away last night I have ninety with me to day

I discharge William Daley one of my company Yesterday for disobedience and imprudent conduct with a squaw.

I have the honor

to remain your obet
Servant W. S. Jarboe

Record F3753: 402 Jarboe to Gov. Weller

Dec 3 1859

Headquarters Eel River Rangers

To his Excellency
John B. Weller
Gov. State of Cal

Sir

In compliance with former instructions, I have the Honor to submit my sixth report, and also acknowledge the receipt of your letter dated Nov 10th

I left Headquarters for Long valley on the 7th inst with 18 men on receiving information from Citizens of Round Valley that Indians were committing depredations killing Stock in great numbers etc on the 18th. I sent Mr. Birch with 8 men to their relief. I continued on to Long Valley with the balance of my command (10 men) same day came upon a Rancheria on South Eel River. Killed 3 Bucks and took 6 prisoners I sent one of them out as another Experiment to induce his tribe to come to my camp and have a talk and treat for peace. On the 18th a violent storm came on snowing and raining tremendously. In crossing the river discovered a band of say 20 Indians, they approached 10 ½ miles distant and made some hostile gestures but owing to the severity of the Storm and the fact that I must of necessity proceeded to Long Valley for provisions, of which I was extremely short I did not think it advisable to pursue them. The Indian that I have sent out on a mission of peace was no doubt at their head and as had been the case often before in sending friendly messages to them by one of this tribe he has never returned. I arrived in Long Valley on the 20th where your letter reached me. The citizens of the Valley were much alarmed at the continual thieving and killing stock by the Indians and desired me to chastise them if possible. A Cow had been killed the night previous within 200 yards of a House. I at once ordered 8 men under Mr. Pool to proceed and punish them if found.

I started back on the 23rd arrived at headquarters on the 24th Birch and party returned to camp on the 28th, He reports that while in Round Valley he was compelled to remain in Camp one half the time in consequence of inclement weather, a constant snow and rain was falling, and next to an impossibility to keep fire arms in condition to be available. Some Cattle were reported killed near the crossing of Middle fork of Middle Eel River. Birch immediately went in search of them and surprised a large Rancheria at about daylight and killed 9 Indians, but few making their escape. A lot of Beef was found in their huts which established their guilt. On the 24th a man came in from hunting stock and reported that 5 Horses were killed, and that he saw Indians there at work cutting them up. This was but 3 miles from the Valley. Birch being encamped but a short distance from where the news was received was sent for and with his command started at night in the direction indicated by those who professed to know their haunts. The company came upon the Indians some 15 miles East of the Valley in a deep Canon on the waters of Eel River, this was in the night and the Indian Spies had discovered their approach there was no time to lose, and the attack was at once made several were killed and 9 squaws + children taken prisoners. A tolerable interpreter being with the Company the squaws were questioned, and revealed to them that the guilty party was ½ mile distant in another Canon. They at once went as directed, and found them in possession of the very horse flesh (identified by marks on the hides) that had been reported stolen. Of this party none escaped death. While the was going on the prisoners made their escape party in consequence of the darkness, and because; the Entire force being in the Engagement. Total killed 18 all Bucks, one little girl left by them in this fight was

found nearby frozen to death and brought into the valley, This was a remnant of the same tribe that I had punished and severely thinned and on a previous occasion. Mr. Birch + Command returned to Headquarters on the 28th as before stated. Provisions were quite scarce in the Valley and no forage for animals of any kind at any price. In consequence of this state of affairs, the animals were very much worn down, and in fact both they and the men were fatigued and required rest and recruiting. Today Dec 3rd I started 8 men in charge of Mr. Birch to capture a band of thieving Indians known to be moving in the regions of South Eel River and tributaries. Mr. Pool has not yet arrived with is command, is probably ranging in the vicinity of Long Valley in pursuance of orders from me at the time I parted from him Your letter instructing me to bring the Indians together for the purpose of repeating to them your advice and counsel and if possible to make a treaty of peace and establish friendly relations permanently I have taken the liberty of anticipating so far as circumstances and facilities at command would admit of.

It will at once be seen by information already furnished you, that all attempts heretofore made to get them to come in, and have a friendly talk with a view to induce them to cease their depredations and become friendly to the whites and remove to the Reservations, or in any other wise to terms, with as little slaughter to them as possible taking care that the innocent be unharmed and the guilty not allowed to escape.

The manner in which Lieut Dillon in command of a detachment US soldiers has reported to my calls upon him for Cooperation and assistance will best be explained and understood by you by the enclosed correspondence between myself and him. He is against me in every particular and is entirely under the control of that most unpopular institution the Reservations.

The condition of my company at present is good and the men are generally contented + well satisfied – but two being on the sick list – Awaiting further instructions.

I have the Honor
To subscribe myself
Your Most Obt Servt, WS Jarboe

Record F3753: 406 Jarboe to Lt. Dillon

Headquarters
Eel River Rangers Dec 21 59

Lieut Dillon

Sir

It is with feelings of surprise mingled with regret that I have to inform you that Lieut Wood of my Command has just returned with a detachment of men from a trip, to the East of round Valley in search of hostile Indians and brings with him as prisoners 4 of the Indians presumed to be living on the Reservation and under your control. The Lieut reports that on his return when was the month of Elk Creek? His men being somewhat scattered, they came upon a party of Indians and as Animals had been killed nearby, they very naturally supposed them to be the identical Indians they were in quest of. Some of the Company in advance seeing them run charged upon them and fired not knowing whether any execution was done or not. Just at that moment the Lieut came up and seeing an Indian advance toward them with a paper, at once, gave orders to Men cease firing and this alone saved their lives as of course, they would not have the same fate that all Hostile Indians do at the hands of the Co under my Command.

This I trust will be sufficient warning (if you have not been convinced before) that in order to insure the safety of Indians [over?] whom you assume control and who you propose to protect it is strictly necessary

that you should either keep them rather close at home, if not in range of your guns or send a White man with them as an escort when sent on errands visiting or roaming our territory known to be infested by hostile Indians and embraced within the limits prescribed for my command to range in and when I am authorized, and expected to protect.

I send your Indians home after feeding and counseling them as to their actions.

Your Respectfully
W. S. Jarboe

Record F3753: 407 Petition of Residents of Round Valley to Gov. Weller [undated]

To His Excellency the Governor of the
State of California

Dear Sir-

The Residents of Round Valley whose signatures are hereto affixed respectfully ask the removal of W.S. Jarboe [illegible] Capt. of a Volunteer Co established by the State to render assistance to the Settlers against the depredations of the Indians.

They aver that the said Jarboe is entirely unfitted for the position, incompetent to command that force under his command and from gross inattention to the position he holds has compelled them to employ parties at a large pecuniary loss to perform the duties that he was in [????] duty to order his men to perform.

They who aver that the men under said Jarboe's command are Known (the bulk of them) to the residents of this Valley as good and efficient men and but for the inability of the Capt would readily serve efficiently and for the purposes for which they enlisted.

Under these circumstances we beg leave to ask that such a commander may be appointed in lieu of said Jarboe, who is compelled to act, if not for our benefit at least not to our detriment and respectfully beg your official [illegible] in that behalf.

[illegible]
[illegible]
Geo White
Thos. B. Henley
John W. Lacock
Sam. L. David
R. S. Wilsey
J. S. W. Gray
J. O. Wilsey

Record F3753: 409 Gov. Weller to Jarboe

Executive Department
Sac Jan 3rd 1860

To Capt. W. S. Jarboe

Sir

Having accomplished all that was anticipated when the force under your command was organized you will proceed immediately to disband the force called out under orders of the 6th + 8th Sept last.

In doing this you will accept for yourself and the [illegible] men who were associated with you in this campaign my sincere thanks for the manner in which it was conducted.

Very
Your Obedient Servant
John B. Weller

Record F3753: 412 Lt. Dillon to Maj. Mackall

Round Valley Cal.
January 14th 1860

I do not like to leave the Valley while I see that there is a continual disposition, on the part of the settlers, to annoy the Reservation. The fences are almost daily pulled down, by persons taking pains to prevent detection, and it is a common occurrence to have Squaws taken by force from the place. About a week ago some of the [illegible] came into the yard, broke open a door, and took off the Squaws that had been locked up by the Agent: This was done at night and was witnessed by no white person, consequently I can do nothing. For God's sake, how long are these things to continue. I have felt, and still feel greatly interested in this place, and these Indians, but I am severely disheartened at being [illegible] though without the power to punish the offenders. It seems to me an unheard of case, in which acts of this kind are committed on a Military Reservation without any inquiry, or attempt to bring the perpetrators to justice.

Signed E. Dillon

A true Copy:

Signed, W. T. Carlin	} Head Quarters Dept of California
1 st Lieut 6 th Infantry	} San Francisco February 1 st 1860 } A true copy

W. W. MacKall
A. A. Genl

Record F3753: 413 Petition of Citizens of Mendocino County to Gov. Latham

To His Excellency the Governor of California

We the undersigned, your humble petitioners, residents of the County of Mendocino, would respectfully represent and petition your honor, the immediate necessity of affording protection to the frontiers of this our County. The command under Capt. W. S. Jarboe having been disbanded, the hostile Indians that were partially held in subjugation by said command have already carried their depredating further into the settlement, although but a few weeks have elapsed, and the people residing in the northern part of this county have to stand guard day and night over their property and their family. We would therefore under these disturbing circumstances humbly petition and pray of your honor that you take immediate steps for our protection and would humbly suggest Capt. Jarboe be recommissioned with full power to raise a company of Forty men, in order that we may have their protection to enable us to provide the necessities of life for our family by tilling the soil and gathering in our harvests for the coming season, without which protection we shall be unable to provide for our daily wants.

Ukiah City, January 15, 1860

[Eighty-two signatures not transcribed]

Record F3753: 414 Memorial of the Eel River Rangers to Gov. Latham

To His Excellency M. S. Latham
Gov. State Cal

Headquarters
Eel River Rangers Jan 15 1860

To the Citizens of Mendocino Co and particularly those of the Eel River District.

We the undersigned members of the company known as the Eel River Rangers being desirous of maintaining discipline and good order in the company and that immediate steps should be taken to ensure to us reasonable and regular supplies and that the Company should be so conducted as to gain and not forfeit the respect and confidence of the Community and that the affairs of the Co. should so be managed in every particular that the State Department from whence the Company derives its authority as it expects to receive remuneration for services will not withhold or refuse to pay for each services rendered the Citizens and the State Would most respectfully represent that in order to accomplish the above it is absolutely necessary that W. S. Jarboe should cease to act as Capt and that we Elect one of our number of [illegible] well tried and true of our own choice whom we have confidence in and believe to be competent to discharge the duties of the Office and carry out the designs for which the company was organized. To enter into minute detail, as to the reasons why we refuse to longer serve under Capt Jarboe would make this quick too lengthy and is we think unnecessary. Suffice it to say that it is through his weak and imbecile management that we have been compelled the most of the time since our organization to subsist on less than half rations – often without sufficient food to sustain life decently. We have by his orders started on laborious and most hazardous trips without a pound of meat and sometimes without bread stuff of any kind, and little or no Coffee or sugar, And never have we had a full or fair supply of provisions in Camp for a week at any one time. This has been the case when good, and responsible men have offered to furnish the company with everything necessary with regularity and on reasonable terms on the faith of the State.

Capt. Jarboe has done this under pretense of economizing in expenses for the benefit of the State. He has lost all confidence that his men should have placed in him by sundry remarks which he has made.

Showing that he had no confidence in or respect for them – that he did not value their lives above that of a Digger etc. etc. He has dishonorably discharged good and true men against the protestation of the Company for no other reason or offense than that which he was himself guilty of and first set the example, and by such means has caused wrangling– dissention and insubordination in the Company.

He has lastly prostituted and made use of his position to accomplish his own selfish ends. He has continually practiced fraud upon the citizens the Company and upon the State Department by wholly and willfully misrepresenting the affairs of the Co to the Governor and in keeping us in total ignorance of the instructions he received from the Department and of such information as legitimately belonged to the Company. He has gone to the Capital for the estimable purpose of settling the affairs of the Co, a duty which we consider him entirely incompetent to perform and left the Company short of supplies in the middle of Winter when we are surrounded by swollen and impassible streams which renders it near to an impossibility for us to obtain provisions and he never making an effort to furnish them to us. He has by his constant misrepresentations and double dealing kept the company in suspense half fed or wholly unprovided for and by his maneuvering and unreliability has tended to bring the company into disrepute if not disgrace and has prevented the

Company from rendering as efficient and valuable service as we otherwise would have done, in preventing Indian depredations.

For these and many other reasons, we are determined to place another man in command. Should the citizens of this District deem it advisable. We will with this assistance and [illegible] hold ourselves in readiness to go forward and render them such protection of life and property as it is our power under our new and we trust better organization

[includes page of signatures not transcribed]

Record F3753: 420/421 Memorial of the Eel River Rangers to Gov. Latham

Ukiah City Jany 25 1860

To his Excellency Milton Latham Governor of the State of California

We the undersigned members of the company Known as the Eel River Rangers would most respectfully represent that we did in a moment of Excitement sign a document and send it to the Governor of the state of California condemning the course of W.S. Jarboe Captain. We did it under the Greatest possible Excitement together with misrepresentations and put our names to the paper, which in our cool and sober judgment we would not have done.

We therefore ask of your Excellency; to return to us the position and take no notice whatever of it and we are of the opinion that Capt. W.S. Jarboe has under all the circumstances done the best he could. He may have erred, who has not? He has had many arduous obstacles thrown in his way, and has successfully contended against them, and we see no cause to complain –

Being anxious to have the affairs of the company adjusted as speedily as possible and on as fair and Equitable terms as possible We ask of your Excellency to return the said paper in order that we may make amends for Errors committed in the heat of passion and we will Ever Pray –

Signed

J W Graham

W. J. Hildreth

J. S. Lamb

G. Green

John Martin

C. W. Styles

F. S. [Stunk]

B. Birch

J. W. [illegible]

Wm Wall

P. C. [illegible]

Wm K. Cole

Jas E. Woods

John K. Gardener

Wm Pool

Jas P Waters

Record F3753: 424 Gen. Clarke to Gov. Downey

Head Quarters Dept of California

San Francisco, February 1st 1860

Sir:

Have not yet received the official report from the Officer in command in Round Valley; but the enclosed copy of a private letter from him to his commanding Officer will probably allay the fears you entertain for the safety of the citizens in that Valley.

I am Sir, with great Respect
Your obt Servt
N. A. Clarke
Col. 6th Inf
Bt Brig Genl
Com'g

His Excellency John G. Downey
Governor, State of California
Sacramento

Record F3753: 425 Fred Green to Gen. Kibbe
San Francisco Jany 31 1860

Dr Sir

Enclosed I send you W.C. Effordes bill bread. Also DHays Bill Drayage, as you requested, + assure you that when the Legislature in their wisdom see fit to make an appropriation for their payment, as well as for the transportation of the Indians to the [illegible] that the money will be very acceptable.

Very Respfly Yrs
Fred P. Greene

To
Genl Wm C. Kibbe
Sacramento

Record F3753: 427 Gen. Kibbe to George Henley
Headquarters California Militia
Office Quarter Master and Adjutant General
Sacramento, Feb 9th, 1860

Sir

You are hereby authorized to review and receipt for all stores of every description now in the possession of Capt W. S. Jarboe and belonging to the State of California. And hold the same [??] to this order.

Wm C. Kibbe
[illegible]
State of California

To George Henley Esq
Round Valley
Mendocino County

Record F3753: 428 Petition of the Citizens of Long Valley to Gov. Downey

Long Valley Mendocino Co Feb 13 60

To His Excellency J. G. Downey
Governor of the State of California

We the undersigned citizens of said Valley pray your Excellency to render us immediate protection against the wild Indians inhabiting this section of country who are daily becoming more bold & hostile & declare they will not only kill our stock of Cattle & horses but ourselves also Notwithstanding the strict watch kept on our stock, the Indians have killed since Sept 20th 59 over four hundred head of cattle + horses. Murdered three men & wounded several.

Since the 15 January 1860 the Indians have killed to our knowledge not less than four thousand (\$4000) dollars of stock.

We are now seriously alarmed as to the safety of ourselves & families & pray prompt attention to the above.
[Sixty-one signatures not transcribed]

Record F3753: 432 Jarboe to Gov. Downey

Sac City Feb 18 1860

To His Excellency—

John B Downey

Governor of California

Sir—

I have the honor to report to your excellency that on the 6th day of September 1857 the Hon John B. Weller Governor of California, authorized me to muster into the service of the State of California, twenty men accustomed to Indian Warfare and frontier life, for the suppression of Hostile Indians between the north and south forks of the Eel River and in the Vicinity of Eden and Round Valleys. The Indians inhabiting that portion of country are the Yukis, Chumas, Cayopomos, and Wailakis: all of whom are hostile and number about nine thousand.

Immediate on the receipt of the communication I proceeded to comply with the order, and on the 16th day of Sept. in Eden Valley, I mustered into the service of the State of California, twenty men possessing the requisite qualifications, mounted on horseback and armed with rifles and pistols. Up to that time the Indians had killed nineteen settlers and six hundred head of stock in the region of country spoken of and were unduly committing their depredations. I endeavored to make a treaty of peace with them and sent my interpreter out to their camps, who talked to them: he was a friendly Chumac Indian. They replied that they would kill every white man they could, and all the stock they could find; giving no reason for it and daring me to come out and fight. I did not attack them for some days afterwards, still hoping I might get along without bloodshed. On the night of the 20th September, they came to Eden Valley and drove off some cattle; I followed and fought them with a detachment of ten men; and from the same date to the 24th of January, I fought them 23 times, killed 283 Warriors, the number of wounded was not known, took 292 Prisoners, sent them to the Reservation. In the several Engagements I had four men severely wounded as well as myself—In obedience to an order from the Hon John B. Weller, dated January 16th inst 1860, I proceeded to Eel River to disband my company, which was done on the 26th day of January, leaving the object for which my company was called into the field, only partly accomplished owing to Federal troops refusing to co-operate with me [illegible] the [illegible] force under my command, one fourth of which was disabled. I submit to your Excellency and the Legislature of this State the Expenses of the Expedition in full belief that they will prove entirely satisfactory.

The Aggregate Expense of the Expedition, exclusive of the pay of men is Five thousand, three hundred and sixty four and ^{44/100} dollars (\$5,364 ^{44/100}). The amount of their pay, using the schedule adopted by the Act making the appropriation for the Expedition in Humboldt and Klamath Counties A.D. 1858+9, called into service under similar auspices, would amount to Five Thousand seven hundred and seventy nine ^{33/100} dollars (\$5,779 ^{33/100}), which makes the total expenses of the expedition, Eleven Thousand one hundred and forty three ^{77/100} (\$11,743 ^{77/100}).

Most Respectfully Submitted
I have the honor to be
Your Obedt Servant
W. S. Jarboe
Capt Commanding Expedition

Record F3753: 475 Petition of the Citizens of Humboldt County to Gov. Downey

To his Excellency John G. Downey
Governor of California

The undersigned citizens of the Town of Union and vicinity in Humboldt County California, respectfully represent, that said Town is situated at the Northern extremity of Humboldt Bay, and is the chief point of supply for the mining settlements of Klamath County and a considerable portion of Trinity County. That the Indians inhabiting the interior + Northern portions of the County, as well as those occupying the middle and Southern portions, have for several years past, and very recently manifested a decided hostility to the white population, + evince a determination to prevent, by every means in their power, the spread of white settlements; + the transit through the country they occupy of trade and travel. Those Indians are numerous and scattered over a considerable tract of country. The number of white settlers on the same land is small, and so far removed from each other; from the body of white population, as to be in constant danger of being cut off, or driven from their homes, and having their property destroyed. In fact, much property has already been destroyed, settlers have been compelled to abandon their homes, and trade and travel between this Town and Trinity County have become so precarious and unsafe , as to seriously affect the business of those engaged in and dependent upon the carrying trade between the points mentioned.

While other portions of the population of the County have suffered from like causes in their peculiar interests, we confine our statements; to facts within our own observation, + more immediately affecting our own immediate population and business. The arms of the general Government, the military + Indian reservations, from misdirection, apathy, or mismanagement, have proved wholly inefficient to remedy these evils. The only effort in the right direction proceeding from the authority of Government, was the expedition organized by your predecessor in office, Gov. Weller, + that was only a partial success, for the want of an adequate force in the field, to affect the desired end. In view of these facts, a few persons in the more southern portion of the county, driven to madness + desperation by losses of their property, + seeing no hope of relief from the [illegible] authorities, committed a barbarous and indiscriminate slaughter of Indians living on the coast + in the immediate vicinity of our principal [illegible] and inevitable consequence of our present condition + relations with the Indians. Nor can it be denied, that this deed must tend to exasperate the savage passions of the Indians, and stimulate them to acts of still greater violence from fierce revenge. Your memorialists believe that the time has come when the Indian population in this County must be removed by authority of law , and if necessary by competent force, or a war of extermination between the white and Indian races must ensue, with all the excess and atrocities ever attendant on such conflict.

Your memorialists, deeply deprecating such a result and desirous of avoiding scenes which tarnish the name of humanity earnestly entreat your Excellency, to order the enrollment of a competent force, to remove the hostile Indians from the sectors of country mentioned to be disposed of in such manner, as to ensure protection + care to them + safety to the lives + property of the whites.

Dated Union March 9th 1860

[Thirty signatures not transcribed]

Record F3753: 486 S. C. Hastings to Gov. Downey

Benicia Feb 2nd, 1860

Gov. Downey

I forward with this the deposition of Mr. Wm H Pool relative to Indian Matters and if your excellency should deem it of sufficient importance suggest that this document should be submitted to the House to whom the Mendocino Indians war matters have been referred.

I have lost more than \$10,000 worth of horses and cattle within a few months of Indian depredations – My herdsmen have been frequently attacked by them and driven in for protection – the man in whose charge I placed my stock has been compelled to leave the ranch and is now living near Ukiah City. The Indians have threatened to kill him and his family should he remain during the winter thaw.

Yours [illegible]

S. C. Hastings

Jas E Wood

C.B. Burch

Wm H Cole

J H Gardner

F. S. Stout

J Shaw

Wm Wall

J W Graham

D. Brock

J. W. Hacker

E. L. Wright

J. P Watters

Anton garcilla Q

William H. Pool

S. S. Dinny

P. C. Fern

C. W. Stites

Chesley Gaugh

Long Valley March 10, 1861

To His Excellency J. W. Downey

Governor of the State of California

Sir,

We the undersigned residents of Long Valley and vicinity (Mendocino Co) beg leave most respectfully to represent that the Indians living in a North East course from said Valley commenced their depredations upon our stock on or near the 20th of Sept 1859 and have continued destroying our stock up to this day. They are known here as the Yukis and Chemar tribes are daily becoming more bold and desperate and declare they will kill not only stock but the settlers as long as one of their tribe exists. They have killed several hundred head of Cattle and Horses and if some protection is not given up immediately all stock raising men will be compelled to leave. One is gone & two more settlers are now gathering up their stock to follow which takes from here over one thousand head of horses & cattle.

Long Valley is a beautiful tract of land, the state Road passes through it leading to Humboldt Bay Humboldt Co. Said Valley has 70 voters Twenty five Families. Our land is surveyed & offered for sale on the 10th June next.

Numerous applications have been made for protection either by regular or state troops but none given and unless your Excellency gives us soon efficient protection we must either gather up the remnant of our property and leave or stay and be beggared, or else hire a party of men to subdue said Indians & give said Co our property as a remuneration for their services. We trust your Excellency will not compel us to resort to either of the above courses. We have banded ourselves tougher for a long time to protect our property & lives but cannot sustain ourselves a month longer & many have a picket guard out on hills until the above facts could be laid before your Excellency & steps taken for our immediate relief as the circumstances of our condition demands.

We feel assured your Excellency will give us such assistance as in your power & for which we will ever pray

[Twenty-six signatures not transcribed]

[separate page]

We the undersigned request the Governor to call the volunteer company into service to protect the [illegible] stock and relieve the citizens from doing their own fighting.

[Forty-three signatures not transcribed]

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ABOUT THE AUTHOR

Brendan Lindsay holds a Ph.D. from the University of California, Riverside. Dr. Lindsay is an associate professor in the History Department and program coordinator for the California Studies Minor at the California State University, Sacramento. His research focuses on California Indian genocide. In 2012, his

book, *Murder State: California's Native American Genocide, 1846-1873* (University of Nebraska Press), published to many positive scholarly reviews. His argument that genocide was a popular, democratically-driven, grassroots effort by ordinary citizenry has become a focal point in the historical debate surrounding genocide in California. *Murder State* received the Western Social Science Association 2014 President's Award for Best Book of 2013.

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Faigman Declaration

Ex. 2

**HASTINGS LEGACY REVIEW COMMITTEE
REPORT TO CHANCELLOR & DEAN DAVID FAIGMAN**

Submitted July 29, 2020

- 1. REPORT BY:** Hastings Legacy Review Committee (“HLRC”)
 - Chair Thomas Gede
 - Vice Chair Robert Sall
- 2. SUBJECT:** Recommendations of the Hastings Legacy Review Committee
- 3. BACKGROUND:**

In 1878, California’s first Chief Justice, Serranus C. Hastings donated \$100,000 to the State of California to establish a law school in his name as part of the University of California. Hastings College of the Law was formed on the basis of this gift, and the institution’s name was codified as such in the Education Code.

In recent years, there has been heightened scrutiny concerning the role of the College’s founder, Chief Justice Hastings, in the mass killing of California Indians in the 1850’s and 1860’s, most notably in the Round Valley and Eden Valley areas in Mendocino County. In particular, the Yuki tribal people of that area were decimated in targeted violence in which Serranus Hastings was likely complicit. There has been some public response and call to address the past and remove the association of the Hastings name from Hastings College of the Law.

The Hastings Legacy Review Committee (the “Committee” or “HLRC”) was formed by Chancellor & Dean David Faigman in August 2017 to research and evaluate the appropriate public response to the participation, if any, in these genocidal acts by the College’s founder. HLRC consists of 13 volunteer members, including alumni, faculty, staff, educators and practitioners in the areas of tribal law including, water rights, land conservation transactions, cultural resource protection, land claims and environmental protection.

Dean Faigman charged the Committee with examining the extent to which Justice Hastings was involved in these murders and other acts of violence perpetrated against the native peoples in those regions and throughout the state, and if the Committee determined that Justice Hastings had some culpability, to make recommendations to the Dean as to what the appropriate institutional response should be. This report should be understood to be solely for the consideration of, and further action by, the Chancellor & Dean, as he formulates his own plans and recommendations for the College.

Professor Brendan Lindsay of Sacramento State University is the author of *Murder State: California's Native American Genocide, 1846-1873*. Professor Lindsay was commissioned in 2017 to research and write a historical paper describing Hastings’ actions in the Round and Eden Valleys, and to place those actions in the context of the history of California’s Native population. Dean Faigman also invited Professor Lindsay to serve on the Committee, a position that he

graciously accepted.

Professor Lindsay's white paper further corroborated the historical narrative that Serranus Hastings bears significant responsibility for violence in eastern Mendocino County in 1859. For a summary of those findings, see **Exhibit A**. Accordingly, the Committee believes that the College must make a public response, acknowledge these atrocities, and establish programs to benefit and improve conditions in the affected tribal communities. This report provides several discrete recommendations to achieve those ends, outlined below. Additionally, this report sets forth reasons why the Committee believes that merely changing the name of the College would not be a meaningful or significant public response.

In seeking to study what would be a meaningful public response, the Committee sought input from the Native American community. With the assistance of Intertribal Sinkyone Wilderness Council, and following meetings and dialogue with the Council, we established relationships with the descendants of the affected Native peoples, including the members of the Tribal Council of the Round Valley Indian Tribes (RVIT). As part of this process, HLRC has focused its efforts on those most impacted by the Hastings legacy, the Yuki descendants living in the Round Valley. HLRC has addressed means by which the College can help the Yuki descendants and related tribes to tell their stories, keep the memory of these crimes in focus, and appropriately frame Serranus Hastings' role in the history not only of this institution, but also of the region and its people. The Committee has undertaken to collaborate on academic and public service endeavors as our institution comes to terms with responding to the darker side of our founder's legacy.

HLRC has concluded that, as an institution, we could make a significant positive impact for the benefit of the local tribal communities still most affected by the killings and theft of property that took place more than 160 years in the past. Recognizing that Serranus Hastings' murderous actions are a stain upon the noble institution that he founded, the Committee supports the institution taking affirmative steps to engage in restorative justice. The Round Valley region of Mendocino County suffers from many social ills, including poverty, addiction, unemployment and lack of public resources. HLRC has concluded that the best approach for the College was not to whitewash or to promote the erasure of the killings, enslavement and displacement in which Serranus Hastings was a willing participant. Rather, it is to highlight it, and to respond by showing another side – by establishing an institutional partnership with the affected tribal community, addressing the existing social needs and providing a significant contribution to its growth and well-being.

HLRC reached consensus on the recommendations below to develop collaborative and supportive programs to benefit the affected tribal communities and to develop a restorative justice agenda, academic engagement and public awareness. HLRC did not reach consensus on the question of whether to re-name the College; as explained below, while a majority of members were of the view the name should not be changed, there were dissenting views, one of which is attached. HLRC submits its report and recommendation with the recognition that you, as Chancellor & Dean, may wish to further examine, survey or develop the issues related to a name change by whatever means you wish. However, this Committee has discharged its duty to report and make recommendations per the original charge.

4. REPORT AND RECOMMENDATIONS OF THE HASTINGS LEGACY REVIEW COMMITTEE

HLRC submits this report to the Chancellor & Dean as contemplated in its formation and charge to examine the legacy and role of Serranus Hastings relating to multiple genocidal acts and theft of property of Native American people in Northern California. While there are dissenting views expressed on some of the issues addressed herein, this report was unanimously approved by the Committee on July 28, 2020. The report incorporates the Background set forth above and includes various recommendations for consideration of the Chancellor & Dean for implementation at the College.

To develop recommendations for positive action by the College, HLRC appointed a subcommittee to consider programs in law that might be of benefit for Native American students, including available resources for establishing law related programs, promoting legal and political externships, scholarship, and recruiting students interested in the study of Indian Law. Among other things, HLRC strongly supports an effort to establish an Indian Law Center at Hastings that would become the preeminent Northern California resource for legal education in this field and would allow the recruitment of students whose practices will focus on Native American legal issues and meeting the legal needs of that community.

As part of the Committee's outreach in Round Valley, our delegation discussed with community leaders the needs of tribal members and potential means for Hastings to engage with the community to achieve their goals. We have discussed the potential formation of a jointly-administered IRC § 501(c)(3) charitable entity which could raise funds through philanthropy and other public or private resources for funding, and to implement programs with the assistance of our institution's resources in legal practice, education, clinical work, access to alumni and others willing to contribute through pro bono services.

The Committee envisions that Hastings should provide not only the types of programs recommended herein, but also, advance the means to speak to a broader audience by actively communicating Hastings' efforts at reconciliation and partnership with the Round Valley tribal community, encouraging and supporting their educational goals and establishing a longstanding institutional process and commitment toward restoration, reparation and involvement.

Recently, we have been informed that a core group of Yuki descendants has been organized at the Round Valley Tribal level, to have primary involvement in the interaction with Hastings. This group presently consists of Reuben Becerra (Chair), Marlene Fulwider (Secretary), Julian Medel (member), Deb Hutt (Sergeant at Arms), Doug Hutt, William Hutt (youth seat), Maria Medel, Ozua Medel and Mona Oandasan (Vice Chair). The Committee anticipates that this core group will be the persons with whom Hastings will primarily communicate going forward, if these recommendations proceed to action.

The following goals were identified as potential projects supported by tribal leadership, and through which both an institutional and pro bono effort of alumni and students could have positive impacts in a community very much in need:

- Formation of a 501(c)(3) entity in association with, and jointly governed by, the Round Valley Indian Tribes to provide an organizational structure to raise capital, organize pro bono volunteers, assist tribal leadership with state and county issues, property issues, economic development and efforts to meet the social needs of the community;
- Structure clinical or experiential education programs bearing in mind the specific needs of residents of Round Valley, with the potential support for a center for pro bono legal assistance in tribal legal matters and public law assistance, potentially staffed with student interns, faculty leadership and pro bono contributors;
- Reach out to Governor Newsom's Tribal Advisor to engage with, and contribute to, that office and the newly-formed Truth and Healing Council, which is working to clarify the historical record of mistreatment, violence and neglect of Native Americans in California;
- Organize pro bono attorneys with a connection to Hastings to assist in defined goals;
- Assist tribal leaders with other community legal needs such as contributing resources to local education and curriculum, preserving the Yuki story, preservation of tribal oral traditions and stories, and advancement in teaching and preserving native languages;
- Assist with the legal aspects of establishing a museum or cultural center in Round Valley, along with a project for protection of sacred sites and repatriation of artifacts and human remains;
- Bring attention to the public at large and the Hastings community with a lecture series, guest speakers, tribal elders, dealing with "Righting the Wrongs";
- Support the collaboration through the use of Hastings staff to seek grant opportunities from public and private sources issues and concerns of tribal leadership;
- Dedicate a memorial to the Yuki people at an appropriate location within the Hastings campus, with display panels, historical explanations and cultural presentations;
- Provide a fully-functional, interactive public website to allow dissemination of the College's approach, to seek public input and to keep the public advised of historical, academic, and programmatic work to address the broader issues and the restorative justice agenda;
- HLRC further recommends the establishment of an Indian Law Program and related academic and educational programs at Hastings, available to all students interested in studying Indian Law. The goal of these programs is the encouragement of scholarship, educational growth, opportunity and support for students, and recruitment of qualified individuals from on the Round Valley Tribes and /or Yuki descendants for legal education and career opportunities in law;

- Finally, HLRC encourages the Dean to engage to publicize these efforts and disseminate an opinion and editorial, perhaps individually or jointly written with a representative of the Yuki descendants, to acknowledge the tragic history of the Round Valley community and to encourage and publicize these efforts at reconciliation.

5. CONSIDERATIONS RELATING TO THE NAME OF THE COLLEGE

In recent years, many institutions of higher education have considered renaming structures on their campuses in light of evidence that donors or other people associated with the institution have connections to some of the worst episodes of American history. In each instance, these institutions have balanced the harms caused by retaining the problematic name with the harms caused by changing it. This Committee engaged in a similar balance. In our discussions, the Committee also recognized the current wave of sensitivity toward monuments and institutional names with a racist legacy, and the public outcry for an end to racism and the removal of such symbols.

Calculating the harms caused by retaining the name is necessarily speculative, but the calculation is nonetheless a searching one. A decision to retain the name risks adverse publicity and members of the public may react negatively to the College's decision. Such a reaction could have a negative impact on the College if there were political repercussions that affected our relationships in Sacramento. Additionally, retaining the name may send a message to prospective students, current students, alumni, faculty, staff, and the public that the College is insensitive to the profoundly negative impact that Serranus Hastings' legacy has had on California society in general, and on the lives of contemporary Native Peoples in particular. This impression of insensitivity could have a number of negative impacts. Most significant would be if retaining the name interfered with the College's ability to educate students by contributing to a campus environment in which Native American students or other students of color felt marginalized. Retaining the name might also make it more difficult for the College to recruit such students. Similar difficulties might arise with respect to faculty and staff. Finally, there may be a segment of alumni less inclined to donate if the College retains the name.

The Committee also considered the harms that would result from a decision to change the name. Some of these harms are speculative, but also potentially serious. For better or worse, the College's identity is intimately connected with the name Hastings. Indeed, the Committee discussed the ways in which the word "Hastings" has acquired secondary meaning that is independent of the name associated with the school's original donor. We are a standalone law school, not associated with a specific university or campus. When people think of Hastings, they generally think of the college, not the man. Accordingly, our identity as an institution, including our national reputation and our alumni's reputations, is particularly associated with the secondary meaning of the name of the College. Changing the name, given the secondary meaning that it has acquired after 142 years, could lead to public confusion about our identity. This, in turn, could result in a decline in applications and perhaps a loss of philanthropic and alumni support.

There are also more concrete harms associated with changing the College's name. These relate to the College's peculiar constitutional status and the nature of Serranus Hastings' bequest to the school. Because the name of the institution is codified in the California Education Code, a legislative act would be required to change its name. See **Exhibits B and C**. Additionally, based upon the language of the original gift and the legislation approving it, should the College cease to use the name Hastings, it appears that the statute would require the State to restore to Serranus Hastings' family the sum of \$100,000 plus "all unexpended accumulated interest" that has accrued in the last 142 years. The potential financial consequences in terms of both the status of the bequest and the legal costs of resolving the issue are substantial and cannot be fully known, even if the Legislature were to consider a name change. Potential financial risk is especially problematic at this time, given the significant financial stress and uncertainty the College is experiencing as a consequence of the COVID-19 pandemic.

Finally, the Committee considered the question of "erasure." As former Harvard University President Drew Gilpin Faust has noted, changing names may amount to falsely negating historical truths and legacies. The people and culture behind these names, she has maintained, should be historically understood and contextualized. Erasing a name takes away that important opportunity. When the question of a name change was posed to leaders of the Round Valley Indian Tribes, one response was to the effect: "If you change the name, we'll never hear from you again."

The Committee balanced these harms and benefits of a name change and a majority of the Committee concluded that the College should not change its name. This conclusion is based on three considerations. First, we must recognize that the College's situation is *sui generis*. The Committee has not been able to identify any other American institution of higher education that has changed its name in response to revelations about its namesake. Changing the name of a building, a quad, or a road on campus is substantially different from changing the name of the institution as a whole, especially if the name in question has acquired an secondary meaning. The former has only a minimal impact on the public identity of the institution, while the latter would have substantial past, present and future impacts, particularly on a small, free-standing institution like Hastings.

Second, the Committee noted that there are considerable financial risks associated with a name change. Most concerning to the Committee was the fact that the extent of these risks is both unknown and potentially enormous. The Committee notes that this Committee did not conduct an in-depth analysis of the financial costs of changing the name of the College and leaves that question to further consideration by the Chancellor & Dean. Even if the legal issues related to a name change could be resolved in a manner that minimized the cost to the College, the legal expenses would be considerable and the financial instability that could arise prior to the resolution of the issue might be substantial. Considering the College's resources and the perilous economic times we are entering, the Committee believes that avoiding these risks is important to the institution.

Finally, in making its recommendation on this issue, the Committee did not discount the risk that a decision not to change the College's name could have a negative impact on its relationship with some of its stakeholders. However, fundamental to the Committee's

consideration of how the College should deal with Serranus Hastings' legacy was the principle of restorative justice. As such, several Committee members articulated that central to our considerations here are the affected tribal communities (the most important stakeholders in this matter) and their concerns about erasure and role we can play in reaching truth and healing.

Nonetheless, there were dissenting views on the name change issue, acknowledging the issue is very challenging and may need more development. While none of the Committee members supported a name change *at this time*, four of the Committee members, including members of the faculty, expressed views that a decision regarding name change should not be final, that further study is warranted, and that input on the subject from students, alumni and the greater community needs to be obtained before a permanent decision is made. Suggestions were made for a further study group or committee to be formed to continue with solicitation of public input. HLRC submits that the Chancellor & Dean may wish to further study the broader historical context or call for additional research and analysis relating to the question.

The Committee is confident that the implementation of its many substantive recommendations, outlined above, will put the College at the forefront of the state's efforts to come to terms with the devastating effects of settler colonialism on California's Native Peoples. Accordingly, the Committee believes that whatever the impact of a final decision to change or not to change the College's name turns out to be, it will be substantially mitigated by the College's actions – actions that aim to be concrete, rather than symbolic, steps towards restorative justice.

6. CONCLUSION

In conclusion, the Committee recommends that the Chancellor & Dean consider the following special actions:

- That the Chancellor & Dean give due consideration to recommendations for engaging a faculty chair for the establishment of an Indian Law Center at Hastings, and the implementation of same. Such a program, if pursued, should encourage scholarship, invite academic study and debate, support community educational needs to aid in efforts to develop the growth and encourage individuals of Native American descent to study the law, and provide the continued and sophisticated study of contemporary and historical aspects of the tribes;
- That the Chancellor & Dean seek approval for Hastings to develop and implement programs for the reconciliation and partnership with the Round Valley Tribal Community, encourage and support community academic and educational goals and establish an ongoing institutional commitment and process toward restoration, reparation and involvement.
- That the Chancellor & Dean seek approval for authorization to work with assigned faculty and pro bono volunteers to establish clinical programs for public service and education consistent with the shared goals of Hastings College of the Law and Round

Valley Tribal Community representatives with particular emphasis on working with and defining the goals of the core group of Yuki descendants;

- That Hastings provide its organizational support and legal resources for the formation of a 501(c)(3) entity, with shared management in association with designated representatives of the Round Valley Indian Tribes, to pursue funding and establishment of programs designed to meet the shared goals of Hastings and the Round Valley Tribal Community.
- That the Chancellor & Dean give appropriate consideration to an interactive public website as outlined above, and for a means of deriving further input from alumni, students and the community at large as to the question of a permanent name change for the College.

Attachments:

- Exhibit A - Executive Summary pages from Brendan Lindsay's White Paper (3 pages)
- Exhibit B - Copy of relevant provisions of the Education Code §§ 92200 *et seq.*
- Exhibit C - Copy of the March 26, 1878 *Act to Create Hastings College of the Law, in the University of the State of California* (2 pages).
- Exhibit D – Paul Laurin's Dissenting views on Re-naming.

Exhibit A

Brendan Lindsay,
Executive Summary,
*Serranus Clinton Hastings in Eden and
Round Valleys Historical Paper*

Serranus Clinton Hastings in Eden and Round Valleys

Historical Paper

Prepared for the Hastings Legacy Review Committee by:
Brendan Lindsay, Ph.D.

Submitted: May 23, 2018
Revision 3: June 3, 2019

STATEMENT OF PURPOSE

This white paper explores the actions of Serranus Clinton Hastings in the historical context of the California Gold Rush, and what role, if any, he played in atrocities committed against California Indian peoples living in and around Eden and Round valleys near the present-day town of Covelo in Mendocino County during the 1850s and 1860s. As founder, endower, and namesake of the University of California's Hastings College of the Law, this is vital to our understanding of the history leading up to the establishment of the college in 1878.

EXECUTIVE SUMMARY

The story of Serranus Clinton Hastings is both unique and commonplace. Commonplace in that he is emblematic of many Americans arriving in California following the discovery of gold in 1848: Hastings came seeking greater fortune, acquired public land, and to build a new life for himself and his family. Much like his countrymen, he had little concern for Indian peoples, beyond the threat they posed to his property. He is unique in the scale of his landholdings, his lasting wealth, his public notoriety, and, especially, his political power and influence. Unlike most others who came for the Gold Rush, Hastings became lastingly wealthy owing to his entrepreneurial activities and investments, a portion of which was founded on his landholdings.

After a successful political career in territorial and state politics in Iowa, Hastings came to California as part of the Gold Rush. Unlike most of the so-called Argonauts, he determined to make his fortune outside the Mother Lode, through a combination of public service, legal practice, and entrepreneurship. In all of these pursuits he achieved success, particularly in his entrepreneurial pursuits.

Hastings arrived with a prominent reputation owing to time in the territorial and state legislatures and as a one-term member of the U.S. House of Representatives for Iowa, where he was also chief justice of the state's highest court. Arriving in California, being a well-known and prominent Democrat, Hastings was appointed as the first Chief Justice of the California Supreme Court. Following his time on the bench, he was elected as the state's third attorney general. While there is significant evidence that Hastings was heavily involved in banking and real estate ventures while in these offices, there is no evidence that he used these positions in any official capacity to further his interests. Having cemented strong political connections in the state, Hastings left public service and turned his eye to pecuniary pursuits.

Focusing on real estate speculation and acquisition, Hastings became one of the largest landowners in California, owning many tens of thousands of acres throughout the northern half of the state. The money to acquire these lands came from a modest nest egg brought with him from Iowa, his salaries as chief justice and attorney general, legal fees received as a practicing attorney, the proceeds of individual and corporate banking and finance activities, logging, and the profits generated by agriculturally driven businesses (including farming, stock raising, and viticulture). Most of all, cycles of land purchase, sale for profit, and acquisition of new properties, combined with the revenues generated by leases of his properties, account for his notable wealth. It is because of the centrality of land to his fortune that questions arise about his role in negatively influencing Indian-white relations in Northern California. Indeed, some have charged that he is responsible in part for fomenting violence and atrocity against California Indians, particularly in and around his holdings in Eden Valley.

According to the historical record—including depositions, letters, and statements by Hastings' contemporaries—significant proof exists that this was the case. Serranus Hastings purchased all of Eden Valley, drove hundreds of head of livestock there, and had a series of stockmen manage his herds. As Eden Valley was home to approximately six hundred Yuki people at the time, the combination of violent stock managers mistreating Indian people and competition for resources created a strained relationship that led to cycles of violence in the valley, as well as in nearby Long and Round valleys. Particularly in colder months, the Yuki came onto the valley floor to forage for grass seeds, acorns, game, and fish, only to find the grass eaten and the game driven off by large herds of cattle and horses, the acorns eaten by hogs, and the path to rivers and streams blocked by white settlement. As a result, the Yuki raided stock to subsist. In

retaliation, white ranchers and settlers killed the Yuki. In response, the Yuki killed more stock—now in retaliation, not just to eat—and, rarely, also killed white men. This cycle repeated, over and over. It is important to note, this state of affairs was not unique to the region or for men like Hastings: these cycles of violence existed throughout the state of California in the 1850s and 1860s. While not unique, it is important to note that there were some contributing factors to this often-seen cycle that were indeed exceptional in the case of Eden and Round valleys.

Hastings' first stock manager, H. L. Hall, who both watched the cattle and horses and operated a farm with over fifty Indian workers, mistreated the local Indigenous population. Hall, known for his violence against Indians, abused and cheated Indian workers, and whipped them if they complained. This led to Yuki retaliation against the stock housed in the valley. Hall not only went out on brutal retaliatory raids against the Yuki, he also notified Hastings of the threat to his investments—without telling Hastings of his role in starting the trouble. Hastings responded by bringing his considerable political and financial influence into play—something not to be found elsewhere in terms of his prominence.

Hastings visited Eden Valley, had personal and community meetings with settlers in the region (the settlers primarily lived to the north, in adjacent Round Valley, not in Eden Valley itself), and suggested forming a volunteer company to suppress local Indian populations. He dictated the petitions to the governor, a personal friend of his, and also offered to finance the operations of the company until state or federal funds could reimburse these efforts. For those hesitant to support such actions, Hastings personally implored individuals to reconsider. He also wrote military commanders and the governor personal letters urging action. In his letters to the governor, he offered to provide salaries and supplies, as well as facilitate the formation and operation of the volunteer companies. Assisting him in this was his business partner, Thomas J. Henley, the Superintendent of Indian Affairs for California. Henley made his home in Round Valley, which also contained a reservation—the Nome Cult Indian Farm. Henley's interests were well-served by formation of a volunteer company: The company would suppress local Indian resistance and bring prisoners there, which would augment the reservation workforce—a workforce Henley and his cronies were using to work their farms, sawmill, and ranching operations, free of charge and at the expense of the federal government. In advance of the governor's approval, Hastings selected a captain for the company and encouraged its formation. Indeed, the Eel River Rangers, as they called themselves, took the field without authorization.

The operations of the company seem to have been well known to Hastings. The captain of the Eel River Rangers, Walter S. Jarboe, a notoriously violent "Indian fighter," kept Hastings apprised of the Rangers' activities in back-channel reports. During these operations, Hastings continued to write the governor and monitor developments in the field. In particular, he scorned U.S. Army officers in the region, who protected Indian interests rather than advanced white interests. Hastings also gave intelligence to the local press, encouraging them to support the efforts of the Eel River Rangers. For Hastings, Henley, and the local white population, the operations of the Rangers were a huge success.

By the time the Eel River Rangers disbanded in 1860, evidence suggests that Eden Valley had been totally depopulated of Yuki people. This conflict—the Rangers and other white settlers fighting with Yuki over land and resources, July 1859 to January 1860—became known as the Mendocino War. Eventually, it spread into the adjacent valleys and produced disastrous consequences for not only Yuki living there, but other Native American groups as well. Conservatively, approximately six hundred Native Americans were directly killed in Long, Round, and Eden valleys, and many hundreds more taken prisoner and forced into slavery on Henley's Nome Cult Indian Farm or the Mendocino Reservation, or on private ranches and farms as domestic and agricultural slaves (euphemistically called apprentices or servants by whites). This included women and children, some of whom were clearly also being sexually abused by the almost all-male population of Round Valley. Evidence also suggests that hundreds more Native Americans were killed or captured by unauthorized vigilante companies.

By the conclusion of the Mendocino War in January 1860, word of atrocities had spread to the point that the state sent a five-man investigative committee to the region to take depositions and formulate

a report on the conflict. Made up of members of the California State Senate and Assembly, the investigation produced two reports: a majority report supported by four members, and a minority report authored and supported by one member. The latter report, authored by an assemblyman from Mendocino County, supported the efforts of the local settlers. The majority report condemned what had happened as despicable. Neither report, however, produced any substantive outcomes. Despite the fact that many of the depositions taken included clear evidence of criminal behavior—including rape, murder, and fraud—no charges were ever brought against the members of the Eel River Rangers or the settlers involved in ad hoc, unauthorized companies operating against the Native population of Round, Long, and Eden valleys. As to Serranus Hastings, he was not called out or singled out for the role he played.

Hastings' holdings were secure, and his direct involvement in the affairs of Eden and Round valleys ends in the historical record after 1861. But the consequences of his actions and those of his fellow Americans have been lasting and devastating, particularly for the Native Americans driven onto reservations as part of the campaigns Hastings orchestrated. While Hastings did not come under direct scrutiny at the time, the federal government undertook investigations into the activities of Hastings' business partner, Thomas J. Henley, and his agents and employees working at the reservation in Round Valley, uncovering wide-ranging fraud and malfeasance. Despite Henley and his subagent's firings, corruption persisted for decades to come, with a revolving-door of agents and superintendents holding these patronage posts engaging in similar nefarious practices, to the detriment of the Native Americans of Round Valley and California. Violence against the much-depleted California Indian population of the region continued into the 1870s, although on a much reduced scale. The Round Valley Indian Reservation continued to operate, but with the Yuki no longer forming its core population—the war had so devastated their numbers, they were soon outnumbered by other California Indian groups being removed to the reservation, sometimes from many miles away. Yuki or not, the reservation remained a horrific place for internees. Corruption by Indian agents was the rule rather than the exception. Native Americans, in addition to the continued specter of violence, rape, and kidnap, suffered from malnutrition, disease, and exposure. Reservation life was further complicated by white squatter's attempts to claim portions of the Round Valley, despite its designation as a federal Indian reservation. Ultimately, the settlers won out, and the size of the reservation reduced to make way for settlement.

By the 1880s, national events began to overtake the surviving Native Americans in and around Round Valley. The Dawes Act, a federal law designed to force Indian assimilation by allotting lands to individuals rather than maintaining tribal holdings in trust passed in 1887. Allotment granted title to individual Indians, then offered the remainder of lands for sale to non-Indians. This resulted in further losses for Native groups unable to resist allotment, including Native Americans in Round Valley. Meanwhile, the Native Americans of Round Valley were overlooked or ignored by developments that might have helped them. For instance, efforts at reform in some parts of the state—especially southern California—concentrated on former Mission Indian populations, and mostly disregarded the rural Native populations in the rest of the state.

American citizenship for Native Americans in the 1920s, Depression-era federal programs, and the rise of employment during World War I and World War II provided some small benefits, but nothing close to ameliorating the extreme poverty found in the Round Valley region. Without the protection of federal Indian treaties, the Yuki and other Indian residents of the valley had few protections and almost no legal recourse. In 1936 the Round Valley Indian Tribe, a conglomeration of the descendants of several Native groups, including the Yuki, was recognized by the federal government, following the creation of a tribal constitution and government under the New Deal's Indian Reorganization Act of 1934. Despite federal recognition—something many California Indian groups are still battling for today—life remains difficult for the Native Americans of Round Valley. In the years following World War II, the reservation and its surrounding area have witnessed a steady economic decline. The most recent employment figures for the reservation suggest an unemployment rate of nearly ninety percent. Meanwhile, to the south, Eden Valley remains non-Native land.

Serranus Hastings, well known as a philanthropist, legal scholar, and California founding father, has a complicated legacy, one containing connections to the darkest chapter in the history of California. While one cannot say the \$100,000 endowment made by Hastings in 1878 was drawn entirely from monies generated by his real estate investments in Eden Valley, or the stock he raised and sold that had lived and grazed there, one can argue that some fractional portion of his total fortune certainly did emanate from there—and thus from his actions supporting atrocities against Native Americans, especially the Yuki of Eden and Round valleys. While many white Californians in the nineteenth-century California had blood on their hands, either by participation, complicity, or silent acceptance of atrocity, Hastings' involvement in this episode was nonetheless significant.

Exhibit B

Copy of relevant provisions of the
Education Code §§ 92200 et seq.

Code: Section: [Up^](#) [Add To My Favorites](#)**EDUCATION CODE - EDC****TITLE 3. POSTSECONDARY EDUCATION [66000 - 101060]** (Title 3 enacted by Stats. 1976, Ch. 1010.)**DIVISION 9. UNIVERSITY OF CALIFORNIA [92000 - 92961]** (Division 9 enacted by Stats. 1976, Ch. 1010.)**PART 57. UNIVERSITY OF CALIFORNIA [92000 - 92988]** (Part 57 enacted by Stats. 1976, Ch. 1010.)**CHAPTER 3. Special Colleges [92200 - 92215]** (Chapter 3 enacted by Stats. 1976, Ch. 1010.)**ARTICLE 1. Hastings College of the Law [92200 - 92215]** (Article 1 enacted by Stats. 1976, Ch. 1010.)

92200. The law college founded and established by S. C. Hastings shall forever be known and designated as the Hastings College of the Law.

(Enacted by Stats. 1976, Ch. 1010.)

92201. The college is affiliated with the University of California, and is the law department thereof.

(Enacted by Stats. 1976, Ch. 1010.)

92202. The college shall afford facilities for the acquisition of legal learning in all branches of the law. To this end it shall establish a curriculum of studies and shall matriculate students who reside at the University of California or elsewhere in the state.

(Enacted by Stats. 1976, Ch. 1010.)

92203. The faculty of the University of California shall grant, and the president shall sign and issue, diplomas to the students of the college.

(Enacted by Stats. 1976, Ch. 1010.)

92204. The business of the college, which includes the power to incur indebtedness, shall be managed by the board of directors. Six directors constitute a quorum for the transaction of all business. The directors shall serve without compensation.

One of the directors shall always be an heir or representative of S.C. Hastings. All other directors taking office after January 1, 1981, shall serve for terms of 12 years. Directors in office prior to January 1, 1981, shall serve for the terms provided in the bylaws of the college in effect on that date.

(Amended by Stats. 1980, Ch. 1155, Sec. 31.6.)

92205. In the investment and management of endowment funds and properties under its jurisdiction, the Board of Directors of the Hastings College of the Law shall comply, to the extent practicable, with the endowment investment and management policies of the Regents of the University of California. Any variance from the endowment investment and management policies of the regents shall be presented to, and reviewed by, the board, which shall adopt a resolution specifying the reasons for the variance. In addition, the board shall comply with all of the following requirements:

(a) The utilization of funds shall be in accordance with the terms specified by the donor.

(b) Prior to the delegation of any authority to engage in making investments, reallocations, or reinvestments of endowment funds on its behalf, the board shall seek and review the written opinion of the general counsel regarding the propriety of the proposed action under the endowment investment and management policies of the regents then in effect.

(c) "Endowment fund" means a fund derived from a gift, bequest, or grant, the terms of which stipulate that the fund principal remain inviolate and that only the income may be expended.

(d) Annual audits shall be conducted by a certified public accountant firm in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(Amended by Stats. 1992, Ch. 31, Sec. 1. Effective January 1, 1993.)

92205.5. It is the intent of the Legislature that the Regents of the University of California provide for a review of the annual audits conducted pursuant to subdivision (d) of Section 92205 and annually report any violations revealed by these audits to the Board of Directors of the Hastings College of the Law, to the appropriate fiscal and policy committees of the Legislature, and to the Legislative Analyst.

(Amended by Stats. 1992, Ch. 31, Sec. 2. Effective January 1, 1993.)

92206. Vacancies occurring in the board of directors after January 1, 1981, other than through the death or resignation of the heir or representative of S.C. Hastings, shall be filled by the Governor and approved by the Senate, a majority of the membership concurring.

(Amended by Stats. 1980, Ch. 1155, Sec. 31.8.)

92207. The officers of the college are a dean, a registrar, and 11 directors. The dean and registrar shall be appointed by, and may be removed by the board of directors.

(Amended by Stats. 1980, Ch. 1155, Sec. 31.9.)

92209. The dean of the college is ex officio a member of the faculty of the University of California.

(Enacted by Stats. 1976, Ch. 1010.)

92210. Professorships may be established in the name of any founder who pays to the college the sum of one hundred thousand dollars (\$100,000) or such greater sum as may be determined by the directors.

(Amended by Stats. 1980, Ch. 1155, Sec. 31.11.)

92211. The sum of 7 percent per annum upon one hundred thousand dollars (\$100,000) shall be appropriated annually by the state and shall be paid in semiannual payments to the directors of the college.

(Enacted by Stats. 1976, Ch. 1010.)

92212. If the state fails to pay to the directors of the college the sum of seven thousand dollars (\$7,000) annually, pursuant to Section 92211, or if the college ceases to exist, the state shall pay to the heirs or legal representatives of S. C. Hastings, the sum of one hundred thousand dollars (\$100,000), and all unexpended accumulated interest, unless the failure is caused by mistake or accident, or the omission of the Legislature to make the appropriation at any one session.

(Enacted by Stats. 1976, Ch. 1010.)

92213. All courses by the college at Sacramento shall be deemed to be given at the site of the college in San Francisco.

(Enacted by Stats. 1976, Ch. 1010.)

92214. The Director of General Services shall transfer the property located at 55 and 75 Hyde Street in the City and County of San Francisco to the University of California to be used for the benefit of the Hastings College of the Law for school purposes.

The university shall have the power to sell or lease the property to a nonprofit corporation in order to provide housing facilities for the students, faculty, and employees of the college.

If such property is sold, it shall be sold for its fair market value, with such valuation approved by the Department of Finance, and the proceeds of the sale shall be deposited in the General Fund. If such property is leased, the proceeds of the lease shall be deposited in the General Fund.

(Enacted by Stats. 1976, Ch. 1010.)

92215. The power to incur indebtedness pursuant to Section 92204 shall include, but is not limited to, the power to issue revenue bonds in the name of the board of directors and as obligations of the board of directors. Revenue bonds may be issued pursuant to the provisions of Chapter 5 (commencing with Section 92400) of Part 57 and, for such purposes, the board of directors shall have the same powers to issue revenue bonds for the benefit of the Hastings College of the Law as are conferred upon the Regents of the University of California for the benefit of the University of California by Chapter 5 (commencing with Section 92400) of Part 57 and shall be subject to the limitations imposed therein. Any such bonds issued for the benefit of the Hastings College of the Law shall be issued in the name of Hastings College of the Law without using the name of the University of California.

(Added by Stats. 1979, Ch. 325.)

Exhibit C

Copy of the March 26, 1878 Act to Create
Hastings College of the Law, in the
University of the State of California

UNIVERSITY OF CALIFORNIA
HASTINGS COLLEGE OF THE LAW

200 McALLISTER STREET
SAN FRANCISCO, CA 94102-4978

**LEGAL STATUS OF
HASTINGS COLLEGE OF THE LAW**

- The Act creating Hastings College of the Law, March 26, 1878 (copy attached), was enacted prior to the time the University of California was elevated to constitutional status.
- It states that:
 - (1) S. C. Hastings be authorized to found and establish a law college whose officers shall be a Dean, Registrar, and eight directors who shall, when vacancies occur, fill the same from members of the Bar Association of the City of San Francisco with always one director being some heir or representative of S. C. Hastings;
 - (2) that the Law College shall affiliate with the University of the State upon such terms as shall be for the welfare of the College and the University; and
 - (3) that the College shall be the Law Department of the University.
- The University was elevated to constitutional status in 1879. The Constitution provided that there was to be no change in the substantive law relating to the University and the institutions that had been previously affiliated. The new constitutional provision specifically provided that "The University..., and its organization and government shall be perpetually continued in the same form and character prescribed by the Organic Act creating the same..."
- As early as 1879, the Supreme Court ruled that the College should affiliate with the University and be governed by the laws applicable to the University "...except as otherwise provided, either in the act of 1868 or in the act of 1878..." (Foltz vs. Hoge, 54 Cal. 28)
- More recently, in 1987, the Court of Appeals, in Tofoya vs. Hastings College of the Law, had this to say: "Thus, in the only two cases concerning the status of Hastings to reach our highest court, it has been affirmed that Hastings is an affiliate of and governed by the same laws as the University."
- The California Education Code provisions governing the University of California apply to Hastings. Section 92201 provides that Hastings is affiliated with the University and is the Law Department of the University.
- While there is no formal written agreement between the University and Hastings, there is ample evidence of a cooperative, friendly relationship which has lasted 112 years.

TWENTY-SECOND SESSION.

fourteenth, in the year one thousand eight hundred and seventy-six, and of May seventh, and October first, of the year one thousand eight hundred and seventy-seven, are hereby in all things ratified and confirmed and made valid.

SEC. 4. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed, and this Act shall take effect immediately.

CHAP. CCCL.—[See volume of *Amendments to the Codes*.]

CHAP. CCCLI.—*An Act to create Hastings' College of the Law, in the University of the State of California.*

[Approved March 26, 1876.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. That S. C. Hastings be authorized to found and establish a Law College, to be forever known and designated as "Hastings' College of the Law." That the officers of said college shall be a Dean, Registrar, and eight (8) Directors. That the Directors shall be Joseph P. Hoge, W. W. Cope, Delos Lake, Saml. M. Wilson, O. P. Evans, Thos. B. Bishop, John R. Sharpstein, and Thos. I. Bergin, of the Bar Association of the City of San Francisco, who shall, when vacancies occur, fill the same from members of said Association or otherwise, and shall always provide for filling a vacancy with some heir or some representative of the said S. C. Hastings. That the Dean and Registrar shall be appointed by the Directors. Authorizing founding of Law College.

SEC. 2. Said College shall affiliate with the University of the State, upon such terms as shall be for the welfare of the College and University, and shall be the Law Department of the University. Shall affiliate with University.

SEC. 3. The Faculty of the University shall grant diplomas to the students of the College, and the President shall sign and issue the diplomas.

SEC. 4. There shall be set apart for the use of the students of the College some room or suitable hall at the University, and the Board of Supervisors of the City of San Francisco is authorized to supply a suitable hall in the City of San Francisco for the students and Directors. Room for students.

SEC. 5. The Dean of said College shall be ex officio of the Faculty of the University, to be designated as such by the Directors of the College.

SEC. 6. The diploma of the students shall entitle the student to whom it is issued to a license to practice in all the Diploma made license to practice.

Courts of this State, subject to right of the Chief Justice of the State to order an examination, as is in ordinary cases of applicants without such diploma.

Condition. SEC. 7. This Act is passed upon the condition that said S. C. Hastings shall pay into the State treasury the sum of one hundred thousand dollars, and is never to be refunded except as hereinafter provided.

SEC. 8. The sum of seven per cent. per annum upon one hundred (\$100,000) thousand dollars is to be appropriated by the State and paid in two semi-annual payments to the Directors of the College.

Business of College. SEC. 9. The business of the College shall be to afford facilities for the acquisition of legal learning in all branches of the law, and to this end shall establish a curriculum of studies, and shall matriculate students who may reside at the University of the State as well as students residing in other parts of the State.

SEC. 10. Professorships may be established in the name of any founder of such Professorships who shall pay to the Directors the sum of thirty (\$30,000) thousand dollars.

SEC. 11. All the business of the College shall be managed by the Directors without compensation, and all acting officers, including the Dean and Registrar, shall be appointed by the Directors and removed by them.

SEC. 12. The Law Library Association, of the City of San Francisco, shall grant to the students the use of their library upon such terms and conditions as they may agree with the Directors of the College.

Object of Act. SEC. 13. The object of this Act being to grant a perpetual annuity for the support and maintenance of said College, should the State, or any government which shall succeed it, fail to pay to the Directors of said College the sum of seven per cent. per annum, as above stipulated, or should the College cease to exist, then the State, or its successor, shall pay to the said S. C. Hastings, his heirs or legal representatives, the said sum of one hundred (\$100,000) thousand dollars and all unexpended accumulated interest; *provided*, that such failure be not caused by mistake or accident, or omission of the Legislature to make the appropriation at any one session.

SEC. 14. That the Chief Justice of the Supreme Court of the State (or if there be no such judicial officer of the State or Government) shall be the President of the Board of Directors, five of whom shall be a quorum to transact all business.

SEC. 15. This Act shall take effect and be in force from and after its passage.

Exhibit D

Paul Laurin's Dissenting Views on Re-naming

Response Comments Regarding Proposed Recommendations of HLRC: Statement of Paul J.
Laurin of May 19, 2020

A moment on process: Recently the tempo of decision-making for the HLRC has loped ahead, in part on non-controversial matters but also as to controversial ones. Late last year after Anne Marie Helm departed essential aspects of what we intended to do were abandoned, as far as I can tell without much discussion. I have felt since last month, in the midst of a global pandemic, that a “cram-down” of a minority view is underway on the critical issue of naming of the College. Given the process, written plan and substantial efforts undertaken since 2017 I believe fundamental fairness mandates that the vital process of discussion and debate over name change occur over an appropriate schedule and slow down. We have not completed that process. In fact, we have just begun it. If there are gripping concerns about the existential threat such action poses to the College, this is a place to air that. Cramming a recommendation through is not going to provide the closure and healing we should be encouraging by our process.

Now more substantive comments which I will asked to appended to any report submitted as presently formulated:

The HLRC is poised to make a historic and disturbing finding on the conduct of its founder. Serranus Hastings did not use his position of power and prestige as he should have, on that we all seem to agree. However, the full measure of the public morality of the man remains somewhat obscured behind some of his outsized accomplishments. But that he was significantly responsible for genocidal atrocities against the native peoples of Round Valley is not in dispute.

Going back years, what initiated our endeavor was the public condemnation of SH and call for a reexamination of the naming of the college for a historical figure possessed of such dubious appetite and ambition to accumulate wealth at the expense of others.

What we have learned in viewing the specific acts of Hastings and his cohorts in the Round Valley has only served to solidify the view that Hastings was capable of, and likely engaged, in reprehensible brutality directed against native peoples. One can be confident it likely did not end there. But the analysis remains unclear in putting the man into broader context of the other events of the day such as the Civil War, slavery and immigrant exploitation.

It is disturbing to confront such a character as the progenitor of the school and realize he reflects the dark professional ethos of a preeminent lawyer and jurist of the time in California.

This is a hard and unpleasant task. But it is vital that it be done because treatment of native peoples and race stand so central to the North American experience.

I submit that the report as drafted with its recommendation on name changing *fundamentally has failed* to do what the committee set out to do: That is, to robustly grapple with and deliberate the public policy implications of name change, fully informed by pertinent historical context, legal analysis and critical community input from the alumni and broader community.

Now we must acknowledge his name will be inescapably associated with the most inconceivable of crimes, made more inconceivable because of the stature he enjoyed. And his name is the name many of us carry on our diplomas.

I know this *fundamental failure* of the committee has occurred because I spent hours reconstructing the committee's timeline. In doing so I was disappointed, because I felt much time, effort and good will had been dismissed.

I am also dismayed because I feel a critical opportunity to do right by an open and fairly informed process is being rejected on an accelerated timeline amidst a great global crisis.

I also believe the short shrift given to name change in the report and the Committee perhaps misses a broader and critical opportunity for the law school, within the broader context of the University of California.

I view my role in serving as not only a single alumnus and life-long Californian educated entirely in its public education system, but also as the former president of the BOG, the volunteer board of the 20,000 plus member alumni association—for 4 years I served on the BOG. It is *the* group dedicated to and predicated upon promoting alumni engagement and inclusion in the ongoing life of the college.

Sadly, those alumni are being excluded and rebuffed in a fundamental way by this process.

In June 2018, Professor Schiller wrote a carefully considered and reasoned memo for the Subcommittee on Renaming entitled Proposal Regarding Renaming. [I will submit it with this statement.]

I literally was the sole dissenter from its reasoned view that the committee could not as a fundamental organic matter credibly make a name change recommendation. The memo submitted (while I was in Europe) literally says:

- [i]t is imperative that the decision [on name change] be made only after a robust, transparent process that includes input from all stakeholders.
- [It further states] Notwithstanding Professor's Lindsey's report, "the Committee believes that there is some historical information with respect to other aspects of Hastings' life , as well as substantial non-historical information with respect to the consequences of renaming that have not been generated."
- Finally, in crafting the guidance on naming considerations, Professor Schiller for the subcommittee expressed discomfort at applying the principles to a specific instance, stating "One of the basic assumptions of the rule of law is that there be a substantial separation between the institutions that craft the rules of general applicability and those that apply those rules to specific cases."
- [That is to say, the Committee in identify appropriate considerations should not also engage applying them.]

I do not believe these recommendations were rejected but instead the Committee (in part at my recommendation stated as a “disagreement”) chose to leave the record open and develop it to see where it would lead. Principal in doing so was the expectation, stated by Professor Schiller, that the Committee would retain outside counsel to advise on bequests and donative issues as well generate information on Constitutional and Legislative issues.

Professor Schiller’s reluctance to recommend name change was not embraced in June 2018. Instead the Committee undertook to fully develop the record, get advice on pertinent legal and legislative issues, seek community input and then revisit the issue.

Since we clearly have not done that, this raises the question what has changed since then regarding the issues informing name change (as contrasted with the very significant work done on restorative programs at the college) then: As far as I can tell, Nothing. Nothing but the conclusion that the difficulties and impediments of an easy and conservative approach are worth abandoning these vital inputs.

When I reviewed my archives, I realized Anne Marie Helm lead the subcommittee on a community survey. Multiple drafts were exchanged. I found extensive discussion all the way through July 2019. Chief Marketing Officer, Alex Shapiro, was brought in expressly to support the technological roll out of an online survey to alumni and the community.

I was not notified and found no reference in the meeting reports of any determination to abandoned that important process. But Ms. Helm, Mr. Shapiro, John McCoy and Elise Traynum have all departed the college, and with them apparently the impetus to organize the effort at soliciting community opinion and further input and analysis.

In late 2019 after Anne Marie’s departure and until February, 2020, I located no HLRC communications regarding the survey or name change issues.

Then, in notes of the February 27, 2020 meeting *I see a refence to the report being presented in person—it was not circulated to me by email. (I was absent due a death in the family and notified the Chairman of that circumstance..)*

Then on April 2, 2020, well after the emergence of our tragic global pandemic, the report was circulated by email for the first time to me with, again for the first time to my knowledge, an affirmative recommendation for no name change. The email directed an up or down vote on the lengthy report within 13 days. Revisions were submitted on April 23, requesting a vote within 7 days. I and others voiced concerns over the surprising fast tracking of the report, including a new and central conclusion on name change. Initial reassurances of more time were followed by a May 11 email rejecting the requests for more time and discussions and directing a vote within 3 days. At the suggestion of Professor Schiller acknowledging, this conference was set up. I believe with the objective of convincing me to join a putative majority.

But this approach is a big mistake. Given the absence of community input, legal analysis and historical context, if any recommendation is to be made it should be to create a study group to do

that work and really look seriously and pragmatically at name change. Exactly what Professor Schiller concluded so emphatically on the record as it existed in 2018.

On the current record, which we undertook to develop, I find myself in the position Professor Schiller was in in 2018, feeling that we lack the critical input necessary for the robust discussion and careful deliberation that his report contemplated and the committee endorsed.

In short, on this record I do not believe it appropriate for the committee to now issue a recommendation on the re-naming. In effect, we have only started the necessary discussions and we don't have all the data we agreed and worked toward generating for over a year. I do concur whole-heartedly in the programs of restorative justice advanced by the committee. They are a tangible and a powerful way of channeling the law school's resources and energies.

If we must rush forward, even in the face of global pandemic, on name change I support a statement of pros and cons only. But I would prefer to complete the work we undertook and I have spent years attending to.

Some final words on perspective and opportunities:

In this new age in which we live, I submit that *the benefits* of name-change should be carefully considered, and not assumed to be disruptive and upsetting to a status quo which frankly faces deep challenges financially and perhaps culturally as well. A couple data points bear stating, in March 2020, due to Covid- 19 UC law schools reported the need for funding of tens of millions in unexpected expenses. Further, I have read reports that amongst public law schools and UC law schools in particular, UC Hastings' students carry the largest load of student debt.

In a nation in which the "student class" is burdened by over a trillion in student debt and economic recovery hinges in part on the successful transition of these new professionals to productive economic life, I believe the Board of Directors must think outside the box—perhaps dramatically so—and that name-change might be exactly a course to chart a new approach to revamp UC Hastings' historical insular identity.

But this is not to detract from the main thrust of what I have seen as the HLRC function, to assess Serannus Hastings' conduct, a point that buttresses my sympathy for name change.

I note that public comment on Judge Hastings' conduct dates back at least to 2007 in internet-available articles. Hastings was expert in utilizing "externalities" to shift to the State the substantial expenses of clearing his claimed lands and perpetuating a slave system predicated on terror, killings, rapes, and forced family separation which funneled into the slave camp known as the Nome Cult Farm, where one could eat only if one could work.

This system of liquidation, enslavement and shifting of externalities is, and I believe the committee has found it, "genocidal", with all that terms carries with it.

We now live in a world of fundamental changes and his antiquely worded sentiments take on new significance. In the *Me Too*, post-Charlottesville, *Black Lives Matter*, *Standing Rock* era, I am concerned we run the risk of missing the tidal changes in attitudes and values with which all our boats may be lifted. Perhaps these are the polemics the report suggests we can and should avoid. For sure, we understand that these issues inform the cultural matrix through which the Board must act, and, ultimately, may be judged. But now with Covid 19, no greater invitation to re-imagining the future could exist.

It is hard for me to conceive the impact it will have if we recognize “significant proof” of genocidal atrocities, a truly monumental placard in the history of the institution, yet still stand by the surname *in perpetuity*. I am concerned we are at risk of grave minimization by way of the banalization of the term “genocide”.

When we started there were apprehensions, even outright resistance to calling this conduct a “genocide.” Aside from ignoring the process we agreed to, I am concerned the proposed recommendation on name change does not adequately reflected the significance of the findings we are now subscribing to. Once the school itself accepts that proposition (genocidal atrocities by its founder), even by way of ad hoc assessment, I think the obligation to act with utmost care and sensitivity must be apparent, and should ultimately repose with the Board as the chief policy making body of the law school.

In this regard, the recommendation misses a critical opportunity to respond to the “Moral Case for Renaming” the school as it was raised in the 2017 SF Chronicle article. I don’t think it is enough to say we will be criticized either way we go. What are the moral issues, and where do they lead? Professor Shiller provided a very detailed road map for these consideration.

I am sure there are substantial pockets of attachment to the name, perhaps deep ones. Yet why not think in terms of the naming alternatives, which could be substantial for the law school at this very difficult time. I note a recent article outlining a \$50 million gift given by former dean Gordon Rausser to the College of Natural Resource’s at Berkeley in February of this year (<https://news.berkeley.edu/2020/02/29/college-of-natural-resources-receives-50-million-naming-gift/>). In these extraordinarily challenging economic times, when the very existence of significant components of the higher education system and the welfare of the “student class” is at issue, I believe our analysis should be more robust on the subject of real and tangible benefits of name-change.

For my own part, and those I informally poll, it is hard to justify retaining a name for the school of a confirmed human rights’ criminal. If any fight would be worth fighting, it would seem that would be it. In any event, it may be justified. On the issue the alumni should be heard. Position papers and discussion should be encouraged, as we planned they would be.

Therefore, I dissent from any naming recommendation without completing our tasks, undertaken and now abandoned, of alumni outreach, legal analysis and historical contextualization.

I am reminded of one of the first events at the College I attended: a lecture by William Brennan entitled "In Defense of Dissents." I hope in that spirit my dissent serves the ends of fair process.

Faigman Declaration

Ex. 3



David L. Faigman
Chancellor & Dean

John F. Digardi Distinguished Professor of Law
Professor, UCSF School of Medicine, Dept. of Psychiatry
University of California Hastings College of the Law | 200 McAllister Street | San Francisco, CA 94102
Phone: 415-565-4700 | faigmand@uchastings.edu | www.uchastings.edu

To: UC Hastings Board of Directors
From: Chancellor & Dean David Faigman
Re: The Legacy of Serranus Clinton Hastings
Date: September 2, 2020

I. INTRODUCTION

Although we can never remove the sins of the past, we might sometimes have the chance to atone for them. Hastings College of the Law has such an opportunity today.

Our founder, Serranus Clinton Hastings, promoted and financed Indian hunting expeditions in the 1850s in the Eden and Round Valleys of Northern California. These expeditions resulted in the deaths or dislocation of 100s of Yuki Indians, and the enrichment of Serranus Hastings, who took possession of large parts of these lands. He later became the first Chief Justice of the State's Supreme Court and, in 1878, founded the first law school in the state, Hastings College of the Law in San Francisco.

This history cannot be altered. However, following a thorough review of the historical record, it is now incumbent upon us to reconcile with the sins of the past that bear our name.

In this memorandum, I set forth a path forward by which the College can begin to make amends. The plan I propose responds to past crimes by acknowledging truth, honoring the memory of the victims, uplifting their descendants, and building bridges where none existed before. We have already begun a dialogue with the Yuki people—the tribe most directly targeted by Serranus Hastings and his agents—in an effort to define opportunities for collaboration, growth, understanding, and friendship.

The path forward outlined here permits the College to confront its past and pursue a future that is consistent with our mission and ideals of public service.

II. BACKGROUND

On July 8, 2017, during my first full year after being appointed as Chancellor & Dean, John Briscoe, formerly an adjunct professor of law at UC Hastings, published an editorial in the *San Francisco Chronicle* entitled “The Moral Case for Renaming Hastings College of the Law.” In that article, Briscoe described how “Serranus Clinton Hastings was [a] promoter [and] financier of Indian-hunting expeditions in the 1850s.” Hastings went on to become the first Chief Justice of the Supreme Court of the State of California and founder and first dean of our law school.¹ Although Briscoe did not expressly call for UC Hastings Law to change its name, he concluded his editorial by observing: “Our rising sensibility obliterates the names of those who sought to enslave or discriminate against a people. How ought we treat the names of those who sought to exterminate a people?”

After the editorial’s publication, I heard from numerous alumni and several faculty members about this issue. In particular, Professors Shauna Marshall and George Bisharat contacted me about this matter and strongly advocated my taking action or calling upon the Board of Directors to do so. I have had the benefit of several conversations with these two scholars since, and, upon their own initiative, they organized a day-long symposium in September 2018 on Serranus Hastings’ legacy, in which I had the honor to participate.

In order to better educate myself on the subject, I read two general histories regarding the treatment of the California Indians in the mid-nineteenth century.² Both of these books mentioned Serranus Hastings’ role in the genocidal acts of the time, but without great detail regarding his actions.

I contacted one of these authors, Professor Brendan Lindsay, and asked him if he would consider writing a more focused historical examination of Serranus Hastings’ role in the genocide that he described in his exhaustively researched book; and ultimately his services were retained. At around the same time, I asked then-Chair of the Board of Directors, Tom Gede, if he would chair an ad hoc committee to consider and make recommendations to the Chancellor & Dean regarding Serranus Hastings’ legacy. In collaboration with Director Gede, I formed the Hastings Legacy Review Committee (HLRC or the Committee), which Director Gede chaired and Robert Sall, the then-President of the Board of Trustees, acted as vice-chair.³

¹ Briscoe noted, additionally, that Leland Stanford, past Governor of the State of California and founder of Stanford University in the name of his son, Leland Stanford Jr., similarly provided official sanction and funded such expeditions.

² These were Benjamin Madley’s “An American Genocide: The United States and the California Indian Catastrophe, 1846-1873,” and Brendan Lindsay’s “Murder State: California’s Native American Genocide, 1846-1873.”

³ HLRC Membership included Blake Atkerson, Esq.; Curtis Berkey, Esq.; Little Fawn Boland, Esq.; Prof. Jo Carrillo; Joseph Cotchett, Esq.; Virginia Dario Elizondo, Esq.; Tom Gede, Esq., Chair; Jenny Kwon, M.Ed., Ed.D.; Paul Laurin, Esq.; Prof. Brendan Lindsay; Robert Sall, Esq., Vice-chair; Prof. Reuel Schiller; and CFO David Seward B.A., MBA. Additionally, John DiPaolo served as counsel to HLRC, and Academic Dean Morris Ratner served in an advisory capacity. Finally, Chief of Staff Anne Marie Helm served as Secretary to the Committee from 2017 to 2019. Professor Lindsay accepted an honorarium of \$10,000 for his work on the historical paper; he was not paid, beyond reimbursement for travel expenses, for his work on the HLRC.

The HLRC began its work in August 2017. I received the Committee's Report on July 29, 2020. It is attached in full in Appendix A, along with a Summary of that Report in Appendix B.

Over a period of three years, the HLRC met regularly. Importantly, and to their great credit, Committee members reached out to the descendants of the Yuki Tribe, which was most directly targeted by Serranus Hastings and his agents, as well as associated tribes, particularly those belonging to the Sinkyone Intertribal Council in Ukiah and the governing council of the Round Valley Indian Tribes in Covelo. Members of the Committee met with these groups on several occasions, two of which I joined. Additionally, the Committee hosted a group of Sinkyone Council members on campus for a set of productive meetings with the Committee, students and the College's administration regarding the horrors of the past and the difficult circumstances the tribes continue to face today.

III. THE CONTEMPORARY CONTEXT: THE TIMES IN WHICH WE LIVE

We belong to a generation that is trying to come to terms with our past. The United States was founded upon principles that inspired, but which were more aspiration than reality. The *Declaration of Independence* stated emphatically that "All men are created equal," at a time when hundreds of thousands of African American men, women, and children were enslaved, and women were denied the most basic equal protections of the law. The Constitution that followed the *Declaration* created a government that normalized slavery, though the founders were sufficiently embarrassed by that "peculiar institution" that they did not refer to it by name.

Indeed, the founders seemed to understand that future generations were doomed to reconcile what they failed to accomplish themselves. In 1820, for instance, Thomas Jefferson wrote to John Holmes regarding Missouri's admission to the Union as a slave state, stating that, "this momentous question, like a fire bell in the night, awakened and filled me with terror. I considered it at once as the knell of the Union. It is hushed indeed for the moment. But this is a reprieve only, not a final sentence." Even today, we have not yet reached a final sentence.

Although slavery came to inform much of the political debate in the nineteenth century, particularly between "States' rights" and Federal authority, another insidious stain on our Nation's history continued to deepen and spread across the American landscape throughout that century and beyond. The settlement of the United States, from the very start, was a progressive displacement and killing of the indigenous people who had made North America their home from time immemorial. Settlers, ultimately supported by State and National action, caused scores of Indian tribes to be dispossessed from their lands through war, murder, theft often accomplished by legal artifice, and other nefarious means. This was conquest justified by a sense of manifest destiny among those populating the new country of the United States. Moreover, like the enslavement of African Americans, the treatment of Native Americans was justified on the belief in the hierarchy of humanity, in which some races were superior to others. Notions that "all [people] are created equal" were observed neither in principle nor practice.

To no small extent, the Civil War came to be understood as a battle over this very principle of equality. Toward the end of the war, President Abraham Lincoln referenced the *Declaration of Independence* in consecrating the battlefield at Gettysburg. He began his brief speech with these now famous words: “Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.” Of perhaps greater gravity, he finished his speech, stating, “that we here highly resolve that these dead shall not have died in vain – that this nation, under God, shall have a new birth of freedom – and that government of the people, by the people, for the people, shall not perish from the earth.”

However, once again, future generations would be needed to move practice toward ambition. Throughout the second half of the twentieth century it appeared that the moral universe was beginning to bend toward justice. The courts invalidated Jim Crow throughout American society, and Congress passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965. But it was a path replete with setbacks, as the assassinations and riots of the late 1960s, Nixon’s “Southern Strategy” in the 1970s, the war on drugs in the 1980s, and mass incarceration of the 1990s all illustrate. It might have been thought, however, that the twenty-first century might yet realize the promises of the eighteenth and nineteenth centuries, especially with the election of Barack Obama in 2008, the first Black president.

Still, throughout the country today the battle for equality continues. A core part of that struggle concerns society’s reckoning with an American past beset by great wrongs. In particular, an important question of the day is how monuments celebrating past leaders who committed great wrongs during their lifetimes should be treated. This issue is complicated by the fact that many of our greatest leaders were deeply flawed individuals by today’s standards, and perhaps by their own as well, including such historical luminaries as George Washington, James Madison, and Thomas Jefferson. Virtually every physical structure around us, including states, cities, counties, universities, and streets, are named for people of very different times who espoused values and practices we now abhor. Moreover, most of those individuals, however many sins they might have committed, also did much good.

The question of how we today might address past wrongs and attempt to remedy their contemporary manifestations is complicated. The evaluation of how best to proceed ought to occur case-by-case and context-by-context. The issue is not simply one of ceasing to honor individuals who, by current standards deserve little or none. It must be a process that considers the totality of circumstances surrounding the matter.

IV. THE HASTINGS LEGACY REVIEW COMMITTEE

As described above, in order to assist me in my evaluation of how the College should respond to the facts surrounding our founder’s role in the mass killings of California Indians in the mid-nineteenth century, I formed the Hastings Legacy Review Committee in August 2017. I am indebted to that Committee for their work in addressing this issue. Although the Committee operated independently, at its invitation I met with members on multiple occasions to help

further their work. Moreover, when the Committee reached out to the descendants of the tribes most affected by Serranus Hastings' actions, I lent the weight of my office to those conversations, including visiting Round Valley for discussions with Round Valley Tribal leaders.

The HLRC Report is attached as Appendix A to this memorandum. In my recommendations below, I adopt their proposals in their entirety.

Importantly, in forming the HLRC, I asked the Committee to work with Professor Brendan Lindsay, author of "Murder State: California's Native American Genocide, 1846-1873," to provide a more detailed and focused historical examination of Serranus Hastings' role in the genocide that occurred in California. His Executive Summary is available as Exhibit A of the Committee's Report.

Finally, not surprisingly, this issue has gained the attention of many of our alumni. As I was preparing this memorandum, I received a copy of a petition being circulated by several well-respected retired jurists that was sent to about 100 alumni. Since I refer to that petition below, I have included it in full as Appendix C.

V. THE LEGACY OF SERRANUS CLINTON HASTINGS

Professor Brendan Lindsay's historical paper starkly describes the actions of our founder in being "responsible in part for fomenting violence and atrocity against California Indians." Serranus Hastings' actions were a shameful part of what was then commonplace and, indeed, an official extension of policies promulgated by the State of California and the federal government, however ill-conceived or misguided. That said, Serranus Hastings, as a leading figure in Northern California, not only went along with the bigotry of the era but contributed materially to its horrific consequences. I leave to the reader the details of the reprehensible treatment of our Native American brethren described in Lindsay's work. These actions led to the wanton death and victimization of hundreds of people, the theft of property, and the destruction of a way of life with profound consequences for their descendants.

In light of the essential purpose of this memorandum—which is to make recommendations to redress as best can be the ills Serranus Hastings wrought—it is important to highlight that what occurred over a century and a half ago continues to reverberate today. This matter is not simply about correcting the historical record by our reconciling with the wrongs of the founder of Hastings College of the Law. The effects of Serranus Hastings' crimes against humanity echo in the conditions prevailing today for the descendants of his victims.

As the HLRC recognized, we have a special opportunity as a school of law to partner with the Yuki descendants and associated tribes to provide concrete and meaningful measures to assist them and be a partner to help them assist themselves.

At the same time, we must realize that as a modestly sized institution of higher education, our capacity to address all that is needed is limited. Hence, we must identify measures that are clear, concrete and achievable.

Based on all these considerations, I adopt and recommend to the Hastings College of the Law's Board of Directors the following initiatives:

- Form a nonprofit organization, a 501(c)(3) entity, in association with, and jointly governed by Yuki descendants selected by the government of the Round Valley Indian Tribes to provide an organizational structure to raise capital, organize pro bono legal and other support, assist tribal leadership with federal, state and county matters, water and property rights, economic development and efforts to meet the social needs of the community;
- Dedicate a permanent and public memorial to the Yuki people at an appropriate location on the Hastings campus, with display panels, historical explanations and cultural presentations;
- Provide a fully functional, interactive public website to allow dissemination of the College's approach, to seek public input and to keep the public advised of historical, academic, and programmatic work to address the broader issues and the restorative justice agenda;
- Establish clinical or experiential educational programs for our students and those of other UC campuses to address the specific needs of residents of Round Valley, including the possibility of a center for pro bono legal assistance in tribal legal matters and public law assistance that could be staffed with student interns, faculty leadership and pro bono contributors;
- Collaborate with Governor Newsom's Tribal Advisor to engage with, and contribute to, that office and the newly formed Truth and Healing Council, which is working to clarify the historical record of mistreatment, violence and neglect of Native Americans in California;
- Organize pro bono attorneys with a connection to Hastings to assist in mutually agreed-upon goals and objectives;
- Assist tribal leaders, where possible, with other community needs such as local education and curriculum, preservation of the Yuki legacy with an emphasis on youth, preservation of tribal oral traditions and stories, and advancement in teaching and preserving native languages;
- Assist with fundraising and the legal aspects of establishing a museum or cultural center in Round Valley, along with a project for protection of sacred sites and repatriation of artifacts and human remains;
- Highlight the injustices of the past by bringing attention to the public at large and the Hastings community with a lecture series, guest speakers, tribal elders, dealing with "Righting the Wrongs";
- Support the collaboration of Hastings staff with tribal members to seek grant opportunities from public and private sources to address issues and concerns of tribal leadership;
- Establish an Indian Law Program and related academic and educational programs at Hastings, available to all students interested in studying Indian Law. The goal of these programs is the encouragement of scholarship, educational growth, opportunity and

support for students, and recruitment of qualified individuals from the Round Valley Tribes and/or Yuki descendants for legal education and career opportunities in law;

- Honor and commemorate the Yuki people by publicizing these efforts by opinion and editorial pieces, perhaps individually or jointly written with a representative of the Yuki descendants, to acknowledge the tragic history of the Round Valley community and to encourage reconciliation through restorative justice.

These initiatives provide the opportunity for the College to partner with the Yuki and associated tribes in Round Valley to leverage our expertise and resources, and to learn from their expertise and experience, in multiple and mutually beneficial ways. These initiatives can help chart a new path between a college named for an individual responsible for unspeakable acts against a group of people, and the descendants of those people. And perhaps most importantly, effectuating these measures means that the crimes committed against the Yuki people do not go forgotten by future generations.

The HLRC recognized, however, that this very insight—that the school bears the name of the perpetrator of indefensible crimes—raises the important question of whether that name should now be removed from the College. The Committee did not reach a definitive recommendation on this issue, explaining as follows:

HLRC did not reach consensus on the question of whether to re-name the College; ... while a majority of members were of the view the name should not be changed, there were dissenting views, one of which is attached. HRLC submits its report and recommendation with the recognition that you, as Chancellor & Dean, may wish to further examine, survey or develop the issues related to a name change by whatever means you wish.

Since receiving the Committee's Report, I have reflected deeply on the question of "what's in a name" and now recommend to the Board that the College should not remove the name "Hastings." The remainder of this memorandum explains my reasons for reaching this conclusion.

VI. FACTORS TO CONSIDER IN REMOVING A NAME

In thinking about how an institution responds to disrepute subsequently discovered, or recognized, about a namesake, an institution must consider not only the namesake's historical wrongs but also the namesake's degree of notoriety in today's society. Institutions named after former presidents such as Woodrow Wilson or Confederate leaders such as Robert E. Lee must contend with the fact that their namesakes, and their namesakes' objectionable conduct, are widely known to the general public. The school must consider whether any positive associations with or attributes of the namesake can justify the significance of association with the namesake's wrongs. Although changing the name of an institution is never a simple matter, the loss of reputational value largely supports replacing a now-discredited historical figure with a name that

better represents what the school stands for today. A recent example of this is Princeton University's decision to remove Woodrow Wilson's name from its School of Law and Policy.

When a school is named for an individual who has fallen into relative obscurity, however, very different considerations come into play. Because few know who the person was to begin with (or, sometimes, that the name is even that of a historical figure), the name is unlikely to communicate any significant message, positive or negative, to most of the public. Indeed, it may be that it is only in the context of considering the current significance of the institution's name that the namesake's misdeeds become a matter of focus. In effect, these individuals' misdeeds would likely have been lost to all but historians and, in cases such as ours, to the descendants of those directly affected, but for the fact that something was named for them.⁴

A school whose name is associated with an otherwise generally unknown donor gains name-recognition, in such cases, from factors independent of the personality or deeds of the person for whom it is named. Such a school's reputation comes from those who walked its halls and made a name for themselves, carrying the name of the school with them. Those individuals include, in particular, the graduates of the school and the scholars associated with the institution. And the longer that a school has existed, the more entangled is its name with its students, scholars and alumni, rather than the name of a long-ago donor.

Removing a name also has the effect of erasing that individual from history—especially when applied to an otherwise obscure historical actor. Erasure is a strategy that can be employed in service to any ideological agenda. While erasing the legacies of white men for their past wrongs is central to many current debates, the concept of historical erasure more typically involves erasure of minority-group members and their acts and accomplishments. An oft-repeated concern of tribal members I spoke with was that their stories are largely absent from the stories of America and California. Many other groups relegated to the margins of society today are similarly absent from the history books. We should strive to avoid erasure, not promulgate it. Erasure gives a lie to our past and ill-prepares us to find truth today. Erasing a school's name does not alter the past but might undermine our ability to learn from it.

A final and basic consideration relevant to changing a name involves how fundamental the name is to the entire institution. Unlike a building or even a school within a university, removing the historical name of a free-standing college or university is a change not lightly undertaken.

⁴ It should be noted that when naming opportunities involve someone who has donated a major gift, removing the name usually requires the school to return the gift or otherwise reconcile with the donor or his or her heirs. This can be an expensive proposition, both in terms of return of the original gift and possible litigation costs. That would be true in the case of UC Hastings, as the state law establishing the school specifies that the original Hastings bequest must be returned, with interest, to the heirs of UC Hastings if the name is changed. Additionally, because the name was established in a statute, it would probably require an act of the legislature to change the name. However, if changing the name were the right course of action, these factors would simply represent necessary costs and challenges.

VII. THE HASTINGS NAME

In deliberating on all of the factors that might be considered in contemplating removing the name Hastings from the College, I have reached the conclusion that, when taken together, the factors relevant to considering this question overwhelmingly point toward retaining the name UC Hastings College of the Law.

UC Hastings Law is profoundly more than its founder's name, and Serranus Hastings is not widely known or associated with UC Hastings. Although Serranus Hastings was a leading and wealthy figure of his day, his name is but a footnote in history. The school was not named in his "honor," but merely as a consequence of a sizable donation to the State to establish the school. But for the controversy surrounding the name itself, few would know who Serranus Hastings was. Indeed, despite our community's appropriate focus on the significance of Serranus Hastings' actions, I am confident that most of the legal profession has no idea who Serranus Hastings was or that UC Hastings was named after him.

The name Hastings College of the Law, in contrast, has a long and distinguished history. Many local, state, and national leaders are counted among its graduates. Its alumni are named partners at national law firms, celebrated trial attorneys, and are leaders in private law firms of every size. Graduates of Hastings Law are disproportionately represented in the California judiciary. The school is known for producing graduates dedicated to public service and who work in the public interest. Hastings is also famous for being the home of the 65-Club from 1942 until around 1995, which included faculty members who were among the most celebrated legal scholars of the second half of the twentieth century. Today, the Hastings name is associated with students, staff and faculty dedicated to excellence in a wide assortment of subject areas and experiential education. And the Hastings name is associated with a growing physical presence in the heart of San Francisco, as the Academic Village takes shape, and partnerships with other UC campuses continue to develop and flourish.

Additionally, Hastings has no greater entity to fall back upon for name identification. The Wilson School could change its name and still have the name of Princeton University behind its School of Law and Policy. As a stand-alone public college, the name Hastings is all there is.⁵

⁵ It has been suggested that if UC Hastings removed Hastings it might do what other UC schools do, which is to adopt the name of the city in which it is located. This is not available to us, because UCSF is already taken by one of the great health sciences universities in the world. Furthermore, the point is not so much that there is no alternative name that the College could plausibly adopt, but rather that there is no alternative name that would be understood by the relevant public as standing for the "former" UC Hastings and that would carry the esteemed reputation the College has attained. In contrast, almost anyone who was familiar with the former Wilson School of Law and Policy knew it was at Princeton and will now know that Princeton School of Law and Policy is the same place; and anyone who now learns of the Princeton School of Law and Policy will accord it the high level of prestige that Princeton enjoys. The same would not be true if UC Hastings were to adopt a geographic identifier. For example, were the College to adopt the name, "UC Bay Area College of Law", it would not be facially apparent that this was merely a new name for the old Hastings, nor would the name immediately convey *any* positive reputational message.

There is also a more fundamental question. What would removing the Hastings name accomplish? As noted, since the school is not actually associated with the historical man, removing his name would have no effect on the reputation of the school, beyond creating substantial ambiguity regarding the who, what, and where of the school formerly known as Hastings. It would, perhaps, allow the school to “move on,” in that whatever future name selected would permit us to put distance between the school and the acts of its founder.

Erasing the name Hastings today, however, does not erase what the man did in his day. More importantly, it is not obvious that separating the school from this history is the right thing to do in any case. Only by remembering the past, and learning from it, can we move forward into a more enlightened and compassionate future. Although we should not honor his memory, Serranus Hastings nonetheless stands as a historical lesson for our time.

Worthy of note, in the Committee’s and my many conversations with members of the Yuki and associated tribes, they have not called upon us to change the name of the school. Many expressly opposed it. In my meetings, several representatives repeated the lament that their stories, their narratives, were largely absent from the history of the United States and California. They called upon us to confront their history, to remember it, to commemorate it, and work to reconcile it. Many of the initiatives identified above accomplish just this. In particular, we are planning a prominent historical display in the renovated lobby of Kane Hall, which will be designed in collaboration with Yuki Tribal representatives.

I have heard from many alumni and faculty who feel strongly about the present issue, though they fall on both sides of the question. There is certainly no consensus on how best to proceed in this matter, nor would I expect there to be one given its difficulty. In any case, I do not believe that this is a question that ought to be decided by majority vote, even if I could identify the exact constituency that should be asked to vote. Perhaps the most revealing sentiment comes from a petition, attached as Appendix C, penned by four well-respected former jurists—Justice James Lambden, Justice Joseph Grodin, Judge Thelton Henderson, and Justice Maria Rivera. That petition asks that I “re-examine what it means to have a premier law school bear Judge Hastings’ name, considered in particular from the perspective of the original Tribal inhabitants.” In an accompanying note, Justice Lambden wrote, “Please note that we are not advocating that the school’s name be changed.” (Emphasis in original.) I believe that I have fulfilled this request, and many of the suggestions offered in the Petition are encompassed in the initiatives outlined above.

Removing the name of the school would do nothing for the people living today that are descended from the victims of Serranus Hastings’ crimes; and it would do nothing for the current and future generations of law students who need to learn of this history and the challenges that Native Americans continue to face. The initiatives proposed above, which I pledge to pursue with full vigor and attention, will bring concrete benefits to the Yuki people and the Indian Tribes of Round Valley. Many of these initiatives will also benefit the UC Hastings community by substantially expanding the curricular and scholarly opportunities on our campus.

Unlike the merely symbolic gesture of erasing his name from the College, developing a true partnership between the descendants of those Serranus Hastings wronged and the school that bears his name, will create substantive opportunities to transcend that history and live and work for common goals.

VIII. CONCLUSION

The nation today is confronting deep divisions regarding how best to respond to historical wrongs. This debate is far greater than whether a particular statue is removed, or the name of a building is changed. Arguments around naming are a manifestation of much larger divisions, divisions over how best to order our current society.

Ours is a country in which the enslavement of African Americans and the profound mistreatment of indigenous peoples was an original sin of our founding and officially countenanced for a considerable time thereafter. Moreover, the echoes of those practices continue to sound in multiple manifestations of inequality today. It is to that inequality that we must attend.

Although the debate about naming is important, it is in truth subservient to a greater concern. In considering the removal of the name of a historical figure that has fallen into disrepute, the true objective is, or ought to be, what that decision means for those alive today.

In considering the question of how the College should respond to the crimes against humanity committed by Serranus Hastings, I have sought to take into account the myriad factors that are relevant to that decision. Ultimately, the important focus was on how best to address the needs of the current generation of Yuki Tribal members and of the UC Hastings legal community. This included ways that the school could partner with the descendants of the Yuki people to reconcile with that history but, more importantly, to forge new bonds between the College and the Yuki Tribe and the associated tribes in Round Valley.

The initiatives set forth above begin a long-delayed reconciliation. I look forward to working with Yuki Tribal representatives and the Round Valley Governing Council to effectuate these, and likely future, initiatives.

APPENDIX A

HASTINGS LEGACY REVIEW COMMITTEE REPORT TO CHANCELLOR & DEAN DAVID FAIGMAN

Including:

Exhibit A

Brendan Lindsay,
Executive Summary,
Serranus Clinton Hastings in Eden and
Round Valleys Historical Paper

Exhibit B

Copy of relevant provisions of the
Education Code §§ 92200 et seq.

Exhibit C

Copy of the March 26, 1878 Act to Create
Hastings College of the Law, in the
University of the State of California

Exhibit D

Paul Laurin's Dissenting Views
on Re-naming

HASTINGS LEGACY REVIEW COMMITTEE REPORT TO CHANCELLOR & DEAN DAVID FAIGMAN

Submitted July 29, 2020

- 1. REPORT BY:** Hastings Legacy Review Committee (“HLRC”)
- Chair Thomas Gede
- Vice Chair Robert Sall
- 2. SUBJECT:** Recommendations of the Hastings Legacy Review Committee
- 3. BACKGROUND:**

In 1878, California’s first Chief Justice, Serranus C. Hastings donated \$100,000 to the State of California to establish a law school in his name as part of the University of California. Hastings College of the Law was formed on the basis of this gift, and the institution’s name was codified as such in the Education Code.

In recent years, there has been heightened scrutiny concerning the role of the College’s founder, Chief Justice Hastings, in the mass killing of California Indians in the 1850’s and 1860’s, most notably in the Round Valley and Eden Valley areas in Mendocino County. In particular, the Yuki tribal people of that area were decimated in targeted violence in which Serranus Hastings was likely complicit. There has been some public response and call to address the past and remove the association of the Hastings name from Hastings College of the Law.

The Hastings Legacy Review Committee (the “Committee” or “HLRC”) was formed by Chancellor & Dean David Faigman in August 2017 to research and evaluate the appropriate public response to the participation, if any, in these genocidal acts by the College’s founder. HLRC consists of 13 volunteer members, including alumni, faculty, staff, educators and practitioners in the areas of tribal law including, water rights, land conservation transactions, cultural resource protection, land claims and environmental protection.

Dean Faigman charged the Committee with examining the extent to which Justice Hastings was involved in these murders and other acts of violence perpetrated against the native peoples in those regions and throughout the state, and if the Committee determined that Justice Hastings had some culpability, to make recommendations to the Dean as to what the appropriate institutional response should be. This report should be understood to be solely for the consideration of, and further action by, the Chancellor & Dean, as he formulates his own plans and recommendations for the College.

Professor Brendan Lindsay of Sacramento State University is the author of *Murder State: California's Native American Genocide, 1846-1873*. Professor Lindsay was commissioned in 2017 to research and write a historical paper describing Hastings’ actions in the Round and Eden Valleys, and to place those actions in the context of the history of California’s Native population. Dean Faigman also invited Professor Lindsay to serve on the Committee, a position that he

graciously accepted.

Professor Lindsay's white paper further corroborated the historical narrative that Serranus Hastings bears significant responsibility for violence in eastern Mendocino County in 1859. For a summary of those findings, see **Exhibit A**. Accordingly, the Committee believes that the College must make a public response, acknowledge these atrocities, and establish programs to benefit and improve conditions in the affected tribal communities. This report provides several discrete recommendations to achieve those ends, outlined below. Additionally, this report sets forth reasons why the Committee believes that merely changing the name of the College would not be a meaningful or significant public response.

In seeking to study what would be a meaningful public response, the Committee sought input from the Native American community. With the assistance of Intertribal Sinkyone Wilderness Council, and following meetings and dialogue with the Council, we established relationships with the descendants of the affected Native peoples, including the members of the Tribal Council of the Round Valley Indian Tribes (RVIT). As part of this process, HLRC has focused its efforts on those most impacted by the Hastings legacy, the Yuki descendants living in the Round Valley. HLRC has addressed means by which the College can help the Yuki descendants and related tribes to tell their stories, keep the memory of these crimes in focus, and appropriately frame Serranus Hastings' role in the history not only of this institution, but also of the region and its people. The Committee has undertaken to collaborate on academic and public service endeavors as our institution comes to terms with responding to the darker side of our founder's legacy.

HLRC has concluded that, as an institution, we could make a significant positive impact for the benefit of the local tribal communities still most affected by the killings and theft of property that took place more than 160 years in the past. Recognizing that Serranus Hastings' murderous actions are a stain upon the noble institution that he founded, the Committee supports the institution taking affirmative steps to engage in restorative justice. The Round Valley region of Mendocino County suffers from many social ills, including poverty, addiction, unemployment and lack of public resources. HLRC has concluded that the best approach for the College was not to whitewash or to promote the erasure of the killings, enslavement and displacement in which Serranus Hastings was a willing participant. Rather, it is to highlight it, and to respond by showing another side – by establishing an institutional partnership with the affected tribal community, addressing the existing social needs and providing a significant contribution to its growth and well-being.

HLRC reached consensus on the recommendations below to develop collaborative and supportive programs to benefit the affected tribal communities and to develop a restorative justice agenda, academic engagement and public awareness. HLRC did not reach consensus on the question of whether to re-name the College; as explained below, while a majority of members were of the view the name should not be changed, there were dissenting views, one of which is attached. HLRC submits its report and recommendation with the recognition that you, as Chancellor & Dean, may wish to further examine, survey or develop the issues related to a name change by whatever means you wish. However, this Committee has discharged its duty to report and make recommendations per the original charge.

4. REPORT AND RECOMMENDATIONS OF THE HASTINGS LEGACY REVIEW COMMITTEE

HLRC submits this report to the Chancellor & Dean as contemplated in its formation and charge to examine the legacy and role of Serranus Hastings relating to multiple genocidal acts and theft of property of Native American people in Northern California. While there are dissenting views expressed on some of the issues addressed herein, this report was unanimously approved by the Committee on July 28, 2020. The report incorporates the Background set forth above and includes various recommendations for consideration of the Chancellor & Dean for implementation at the College.

To develop recommendations for positive action by the College, HLRC appointed a subcommittee to consider programs in law that might be of benefit for Native American students, including available resources for establishing law related programs, promoting legal and political externships, scholarship, and recruiting students interested in the study of Indian Law. Among other things, HLRC strongly supports an effort to establish an Indian Law Center at Hastings that would become the preeminent Northern California resource for legal education in this field and would allow the recruitment of students whose practices will focus on Native American legal issues and meeting the legal needs of that community.

As part of the Committee's outreach in Round Valley, our delegation discussed with community leaders the needs of tribal members and potential means for Hastings to engage with the community to achieve their goals. We have discussed the potential formation of a jointly-administered IRC § 501(c)(3) charitable entity which could raise funds through philanthropy and other public or private resources for funding, and to implement programs with the assistance of our institution's resources in legal practice, education, clinical work, access to alumni and others willing to contribute through pro bono services.

The Committee envisions that Hastings should provide not only the types of programs recommended herein, but also, advance the means to speak to a broader audience by actively communicating Hastings' efforts at reconciliation and partnership with the Round Valley tribal community, encouraging and supporting their educational goals and establishing a longstanding institutional process and commitment toward restoration, reparation and involvement.

Recently, we have been informed that a core group of Yuki descendants has been organized at the Round Valley Tribal level, to have primary involvement in the interaction with Hastings. This group presently consists of Reuben Becerra (Chair), Marlene Fulwider (Secretary), Julian Medel (member), Deb Hutt (Sergeant at Arms), Doug Hutt, William Hutt (youth seat), Maria Medel, Ozua Medel and Mona Oandasas (Vice Chair). The Committee anticipates that this core group will be the persons with whom Hastings will primarily communicate going forward, if these recommendations proceed to action.

The following goals were identified as potential projects supported by tribal leadership, and through which both an institutional and pro bono effort of alumni and students could have positive impacts in a community very much in need:

- Formation of a 501(c)(3) entity in association with, and jointly governed by, the Round Valley Indian Tribes to provide an organizational structure to raise capital, organize pro bono volunteers, assist tribal leadership with state and county issues, property issues, economic development and efforts to meet the social needs of the community;
- Structure clinical or experiential education programs bearing in mind the specific needs of residents of Round Valley, with the potential support for a center for pro bono legal assistance in tribal legal matters and public law assistance, potentially staffed with student interns, faculty leadership and pro bono contributors;
- Reach out to Governor Newsom's Tribal Advisor to engage with, and contribute to, that office and the newly-formed Truth and Healing Council, which is working to clarify the historical record of mistreatment, violence and neglect of Native Americans in California;
- Organize pro bono attorneys with a connection to Hastings to assist in defined goals;
- Assist tribal leaders with other community legal needs such as contributing resources to local education and curriculum, preserving the Yuki story, preservation of tribal oral traditions and stories, and advancement in teaching and preserving native languages;
- Assist with the legal aspects of establishing a museum or cultural center in Round Valley, along with a project for protection of sacred sites and repatriation of artifacts and human remains;
- Bring attention to the public at large and the Hastings community with a lecture series, guest speakers, tribal elders, dealing with "Righting the Wrongs";
- Support the collaboration through the use of Hastings staff to seek grant opportunities from public and private sources issues and concerns of tribal leadership;
- Dedicate a memorial to the Yuki people at an appropriate location within the Hastings campus, with display panels, historical explanations and cultural presentations;
- Provide a fully-functional, interactive public website to allow dissemination of the College's approach, to seek public input and to keep the public advised of historical, academic, and programmatic work to address the broader issues and the restorative justice agenda;
- HLRC further recommends the establishment of an Indian Law Program and related academic and educational programs at Hastings, available to all students interested in studying Indian Law. The goal of these programs is the encouragement of scholarship, educational growth, opportunity and support for students, and recruitment of qualified individuals from on the Round Valley Tribes and /or Yuki descendants for legal education and career opportunities in law;

- Finally, HLRC encourages the Dean to engage to publicize these efforts and disseminate an opinion and editorial, perhaps individually or jointly written with a representative of the Yuki descendants, to acknowledge the tragic history of the Round Valley community and to encourage and publicize these efforts at reconciliation.

5. CONSIDERATIONS RELATING TO THE NAME OF THE COLLEGE

In recent years, many institutions of higher education have considered renaming structures on their campuses in light of evidence that donors or other people associated with the institution have connections to some of the worst episodes of American history. In each instance, these institutions have balanced the harms caused by retaining the problematic name with the harms caused by changing it. This Committee engaged in a similar balance. In our discussions, the Committee also recognized the current wave of sensitivity toward monuments and institutional names with a racist legacy, and the public outcry for an end to racism and the removal of such symbols.

Calculating the harms caused by retaining the name is necessarily speculative, but the calculation is nonetheless a searching one. A decision to retain the name risks adverse publicity and members of the public may react negatively to the College's decision. Such a reaction could have a negative impact on the College if there were political repercussions that affected our relationships in Sacramento. Additionally, retaining the name may send a message to prospective students, current students, alumni, faculty, staff, and the public that the College is insensitive to the profoundly negative impact that Serranus Hastings' legacy has had on California society in general, and on the lives of contemporary Native Peoples in particular. This impression of insensitivity could have a number of negative impacts. Most significant would be if retaining the name interfered with the College's ability to educate students by contributing to a campus environment in which Native American students or other students of color felt marginalized. Retaining the name might also make it more difficult for the College to recruit such students. Similar difficulties might arise with respect to faculty and staff. Finally, there may be a segment of alumni less inclined to donate if the College retains the name.

The Committee also considered the harms that would result from a decision to change the name. Some of these harms are speculative, but also potentially serious. For better or worse, the College's identity is intimately connected with the name Hastings. Indeed, the Committee discussed the ways in which the word "Hastings" has acquired secondary meaning that is independent of the name associated with the school's original donor. We are a standalone law school, not associated with a specific university or campus. When people think of Hastings, they generally think of the college, not the man. Accordingly, our identity as an institution, including our national reputation and our alumni's reputations, is particularly associated with the secondary meaning of the name of the College. Changing the name, given the secondary meaning that it has acquired after 142 years, could lead to public confusion about our identity. This, in turn, could result in a decline in applications and perhaps a loss of philanthropic and alumni support.

There are also more concrete harms associated with changing the College's name. These relate to the College's peculiar constitutional status and the nature of Serranus Hastings' bequest to the school. Because the name of the institution is codified in the California Education Code, a legislative act would be required to change its name. See **Exhibits B and C**. Additionally, based upon the language of the original gift and the legislation approving it, should the College cease to use the name Hastings, it appears that the statute would require the State to restore to Serranus Hastings' family the sum of \$100,000 plus "all unexpended accumulated interest" that has accrued in the last 142 years. The potential financial consequences in terms of both the status of the bequest and the legal costs of resolving the issue are substantial and cannot be fully known, even if the Legislature were to consider a name change. Potential financial risk is especially problematic at this time, given the significant financial stress and uncertainty the College is experiencing as a consequence of the COVID-19 pandemic.

Finally, the Committee considered the question of "erasure." As former Harvard University President Drew Gilpin Faust has noted, changing names may amount to falsely negating historical truths and legacies. The people and culture behind these names, she has maintained, should be historically understood and contextualized. Erasing a name takes away that important opportunity. When the question of a name change was posed to leaders of the Round Valley Indian Tribes, one response was to the effect: "If you change the name, we'll never hear from you again."

The Committee balanced these harms and benefits of a name change and a majority of the Committee concluded that the College should not change its name. This conclusion is based on three considerations. First, we must recognize that the College's situation is *sui generis*. The Committee has not been able to identify any other American institution of higher education that has changed its name in response to revelations about its namesake. Changing the name of a building, a quad, or a road on campus is substantially different from changing the name of the institution as a whole, especially if the name in question has acquired an secondary meaning. The former has only a minimal impact on the public identity of the institution, while the latter would have substantial past, present and future impacts, particularly on a small, free-standing institution like Hastings.

Second, the Committee noted that there are considerable financial risks associated with a name change. Most concerning to the Committee was the fact that the extent of these risks is both unknown and potentially enormous. The Committee notes that this Committee did not conduct an in-depth analysis of the financial costs of changing the name of the College and leaves that question to further consideration by the Chancellor & Dean. Even if the legal issues related to a name change could be resolved in a manner that minimized the cost to the College, the legal expenses would be considerable and the financial instability that could arise prior to the resolution of the issue might be substantial. Considering the College's resources and the perilous economic times we are entering, the Committee believes that avoiding these risks is important to the institution.

Finally, in making its recommendation on this issue, the Committee did not discount the risk that a decision not to change the College's name could have a negative impact on its relationship with some of its stakeholders. However, fundamental to the Committee's

consideration of how the College should deal with Serranus Hastings' legacy was the principle of restorative justice. As such, several Committee members articulated that central to our considerations here are the affected tribal communities (the most important stakeholders in this matter) and their concerns about erasure and role we can play in reaching truth and healing.

Nonetheless, there were dissenting views on the name change issue, acknowledging the issue is very challenging and may need more development. While none of the Committee members supported a name change *at this time*, four of the Committee members, including members of the faculty, expressed views that a decision regarding name change should not be final, that further study is warranted, and that input on the subject from students, alumni and the greater community needs to be obtained before a permanent decision is made. Suggestions were made for a further study group or committee to be formed to continue with solicitation of public input. HLRC submits that the Chancellor & Dean may wish to further study the broader historical context or call for additional research and analysis relating to the question.

The Committee is confident that the implementation of its many substantive recommendations, outlined above, will put the College at the forefront of the state's efforts to come to terms with the devastating effects of settler colonialism on California's Native Peoples. Accordingly, the Committee believes that whatever the impact of a final decision to change or not to change the College's name turns out to be, it will be substantially mitigated by the College's actions – actions that aim to be concrete, rather than symbolic, steps towards restorative justice.

6. CONCLUSION

In conclusion, the Committee recommends that the Chancellor & Dean consider the following special actions:

- That the Chancellor & Dean give due consideration to recommendations for engaging a faculty chair for the establishment of an Indian Law Center at Hastings, and the implementation of same. Such a program, if pursued, should encourage scholarship, invite academic study and debate, support community educational needs to aid in efforts to develop the growth and encourage individuals of Native American descent to study the law, and provide the continued and sophisticated study of contemporary and historical aspects of the tribes;
- That the Chancellor & Dean seek approval for Hastings to develop and implement programs for the reconciliation and partnership with the Round Valley Tribal Community, encourage and support community academic and educational goals and establish an ongoing institutional commitment and process toward restoration, reparation and involvement.
- That the Chancellor & Dean seek approval for authorization to work with assigned faculty and pro bono volunteers to establish clinical programs for public service and education consistent with the shared goals of Hastings College of the Law and Round

Valley Tribal Community representatives with particular emphasis on working with and defining the goals of the core group of Yuki descendants;

- That Hastings provide its organizational support and legal resources for the formation of a 501(c)(3) entity, with shared management in association with designated representatives of the Round Valley Indian Tribes, to pursue funding and establishment of programs designed to meet the shared goals of Hastings and the Round Valley Tribal Community.
- That the Chancellor & Dean give appropriate consideration to an interactive public website as outlined above, and for a means of deriving further input from alumni, students and the community at large as to the question of a permanent name change for the College.

Attachments:

- Exhibit A - Executive Summary pages from Brendan Lindsay's White Paper (3 pages)
- Exhibit B - Copy of relevant provisions of the Education Code §§ 92200 *et seq.*
- Exhibit C - Copy of the March 26, 1878 *Act to Create Hastings College of the Law, in the University of the State of California* (2 pages).
- Exhibit D – Paul Laurin's Dissenting views on Re-naming.

Exhibit A

Brendan Lindsay,
Executive Summary,
*Serranus Clinton Hastings in Eden and
Round Valleys Historical Paper*

Serranus Clinton Hastings in Eden and Round Valleys

Historical Paper

Prepared for the Hastings Legacy Review Committee by:
Brendan Lindsay, Ph.D.

Submitted: May 23, 2018
Revision 3: June 3, 2019

STATEMENT OF PURPOSE

This white paper explores the actions of Serranus Clinton Hastings in the historical context of the California Gold Rush, and what role, if any, he played in atrocities committed against California Indian peoples living in and around Eden and Round valleys near the present-day town of Covelo in Mendocino County during the 1850s and 1860s. As founder, endower, and namesake of the University of California's Hastings College of the Law, this is vital to our understanding of the history leading up to the establishment of the college in 1878.

EXECUTIVE SUMMARY

The story of Serranus Clinton Hastings is both unique and commonplace. Commonplace in that he is emblematic of many Americans arriving in California following the discovery of gold in 1848: Hastings came seeking greater fortune, acquired public land, and to build a new life for himself and his family. Much like his countrymen, he had little concern for Indian peoples, beyond the threat they posed to his property. He is unique in the scale of his landholdings, his lasting wealth, his public notoriety, and, especially, his political power and influence. Unlike most others who came for the Gold Rush, Hastings became lastingly wealthy owing to his entrepreneurial activities and investments, a portion of which was founded on his landholdings.

After a successful political career in territorial and state politics in Iowa, Hastings came to California as part of the Gold Rush. Unlike most of the so-called Argonauts, he determined to make his fortune outside the Mother Lode, through a combination of public service, legal practice, and entrepreneurship. In all of these pursuits he achieved success, particularly in his entrepreneurial pursuits.

Hastings arrived with a prominent reputation owing to time in the territorial and state legislatures and as a one-term member of the U.S. House of Representatives for Iowa, where he was also chief justice of the state's highest court. Arriving in California, being a well-known and prominent Democrat, Hastings was appointed as the first Chief Justice of the California Supreme Court. Following his time on the bench, he was elected as the state's third attorney general. While there is significant evidence that Hastings was heavily involved in banking and real estate ventures while in these offices, there is no evidence that he used these positions in any official capacity to further his interests. Having cemented strong political connections in the state, Hastings left public service and turned his eye to pecuniary pursuits.

Focusing on real estate speculation and acquisition, Hastings became one of the largest landowners in California, owning many tens of thousands of acres throughout the northern half of the state. The money to acquire these lands came from a modest nest egg brought with him from Iowa, his salaries as chief justice and attorney general, legal fees received as a practicing attorney, the proceeds of individual and corporate banking and finance activities, logging, and the profits generated by agriculturally driven businesses (including farming, stock raising, and viticulture). Most of all, cycles of land purchase, sale for profit, and acquisition of new properties, combined with the revenues generated by leases of his properties, account for his notable wealth. It is because of the centrality of land to his fortune that questions arise about his role in negatively influencing Indian-white relations in Northern California. Indeed, some have charged that he is responsible in part for fomenting violence and atrocity against California Indians, particularly in and around his holdings in Eden Valley.

According to the historical record—including depositions, letters, and statements by Hastings' contemporaries—significant proof exists that this was the case. Serranus Hastings purchased all of Eden Valley, drove hundreds of head of livestock there, and had a series of stockmen manage his herds. As Eden Valley was home to approximately six hundred Yuki people at the time, the combination of violent stock managers mistreating Indian people and competition for resources created a strained relationship that led to cycles of violence in the valley, as well as in nearby Long and Round valleys. Particularly in colder months, the Yuki came onto the valley floor to forage for grass seeds, acorns, game, and fish, only to find the grass eaten and the game driven off by large herds of cattle and horses, the acorns eaten by hogs, and the path to rivers and streams blocked by white settlement. As a result, the Yuki raided stock to subsist. In

retaliation, white ranchers and settlers killed the Yuki. In response, the Yuki killed more stock—now in retaliation, not just to eat—and, rarely, also killed white men. This cycle repeated, over and over. It is important to note, this state of affairs was not unique to the region or for men like Hastings: these cycles of violence existed throughout the state of California in the 1850s and 1860s. While not unique, it is important to note that there were some contributing factors to this often-seen cycle that were indeed exceptional in the case of Eden and Round valleys.

Hastings' first stock manager, H. L. Hall, who both watched the cattle and horses and operated a farm with over fifty Indian workers, mistreated the local Indigenous population. Hall, known for his violence against Indians, abused and cheated Indian workers, and whipped them if they complained. This led to Yuki retaliation against the stock housed in the valley. Hall not only went out on brutal retaliatory raids against the Yuki, he also notified Hastings of the threat to his investments—without telling Hastings of his role in starting the trouble. Hastings responded by bringing his considerable political and financial influence into play—something not to be found elsewhere in terms of his prominence.

Hastings visited Eden Valley, had personal and community meetings with settlers in the region (the settlers primarily lived to the north, in adjacent Round Valley, not in Eden Valley itself), and suggested forming a volunteer company to suppress local Indian populations. He dictated the petitions to the governor, a personal friend of his, and also offered to finance the operations of the company until state or federal funds could reimburse these efforts. For those hesitant to support such actions, Hastings personally implored individuals to reconsider. He also wrote military commanders and the governor personal letters urging action. In his letters to the governor, he offered to provide salaries and supplies, as well as facilitate the formation and operation of the volunteer companies. Assisting him in this was his business partner, Thomas J. Henley, the Superintendent of Indian Affairs for California. Henley made his home in Round Valley, which also contained a reservation—the Nome Cult Indian Farm. Henley's interests were well-served by formation of a volunteer company: The company would suppress local Indian resistance and bring prisoners there, which would augment the reservation workforce—a workforce Henley and his cronies were using to work their farms, sawmill, and ranching operations, free of charge and at the expense of the federal government. In advance of the governor's approval, Hastings selected a captain for the company and encouraged its formation. Indeed, the Eel River Rangers, as they called themselves, took the field without authorization.

The operations of the company seem to have been well known to Hastings. The captain of the Eel River Rangers, Walter S. Jarboe, a notoriously violent "Indian fighter," kept Hastings apprised of the Rangers' activities in back-channel reports. During these operations, Hastings continued to write the governor and monitor developments in the field. In particular, he scorned U.S. Army officers in the region, who protected Indian interests rather than advanced white interests. Hastings also gave intelligence to the local press, encouraging them to support the efforts of the Eel River Rangers. For Hastings, Henley, and the local white population, the operations of the Rangers were a huge success.

By the time the Eel River Rangers disbanded in 1860, evidence suggests that Eden Valley had been totally depopulated of Yuki people. This conflict—the Rangers and other white settlers fighting with Yuki over land and resources, July 1859 to January 1860—became known as the Mendocino War. Eventually, it spread into the adjacent valleys and produced disastrous consequences for not only Yuki living there, but other Native American groups as well. Conservatively, approximately six hundred Native Americans were directly killed in Long, Round, and Eden valleys, and many hundreds more taken prisoner and forced into slavery on Henley's Nome Cult Indian Farm or the Mendocino Reservation, or on private ranches and farms as domestic and agricultural slaves (euphemistically called apprentices or servants by whites). This included women and children, some of whom were clearly also being sexually abused by the almost all-male population of Round Valley. Evidence also suggests that hundreds more Native Americans were killed or captured by unauthorized vigilante companies.

By the conclusion of the Mendocino War in January 1860, word of atrocities had spread to the point that the state sent a five-man investigative committee to the region to take depositions and formulate

a report on the conflict. Made up of members of the California State Senate and Assembly, the investigation produced two reports: a majority report supported by four members, and a minority report authored and supported by one member. The latter report, authored by an assemblyman from Mendocino County, supported the efforts of the local settlers. The majority report condemned what had happened as despicable. Neither report, however, produced any substantive outcomes. Despite the fact that many of the depositions taken included clear evidence of criminal behavior—including rape, murder, and fraud—no charges were ever brought against the members of the Eel River Rangers or the settlers involved in ad hoc, unauthorized companies operating against the Native population of Round, Long, and Eden valleys. As to Serranus Hastings, he was not called out or singled out for the role he played.

Hastings' holdings were secure, and his direct involvement in the affairs of Eden and Round valleys ends in the historical record after 1861. But the consequences of his actions and those of his fellow Americans have been lasting and devastating, particularly for the Native Americans driven onto reservations as part of the campaigns Hastings orchestrated. While Hastings did not come under direct scrutiny at the time, the federal government undertook investigations into the activities of Hastings' business partner, Thomas J. Henley, and his agents and employees working at the reservation in Round Valley, uncovering wide-ranging fraud and malfeasance. Despite Henley and his subagent's firings, corruption persisted for decades to come, with a revolving-door of agents and superintendents holding these patronage posts engaging in similar nefarious practices, to the detriment of the Native Americans of Round Valley and California. Violence against the much-depleted California Indian population of the region continued into the 1870s, although on a much reduced scale. The Round Valley Indian Reservation continued to operate, but with the Yuki no longer forming its core population—the war had so devastated their numbers, they were soon outnumbered by other California Indian groups being removed to the reservation, sometimes from many miles away. Yuki or not, the reservation remained a horrific place for internees. Corruption by Indian agents was the rule rather than the exception. Native Americans, in addition to the continued specter of violence, rape, and kidnap, suffered from malnutrition, disease, and exposure. Reservation life was further complicated by white squatter's attempts to claim portions of the Round Valley, despite its designation as a federal Indian reservation. Ultimately, the settlers won out, and the size of the reservation reduced to make way for settlement.

By the 1880s, national events began to overtake the surviving Native Americans in and around Round Valley. The Dawes Act, a federal law designed to force Indian assimilation by allotting lands to individuals rather than maintaining tribal holdings in trust passed in 1887. Allotment granted title to individual Indians, then offered the remainder of lands for sale to non-Indians. This resulted in further losses for Native groups unable to resist allotment, including Native Americans in Round Valley. Meanwhile, the Native Americans of Round Valley were overlooked or ignored by developments that might have helped them. For instance, efforts at reform in some parts of the state—especially southern California—concentrated on former Mission Indian populations, and mostly disregarded the rural Native populations in the rest of the state.

American citizenship for Native Americans in the 1920s, Depression-era federal programs, and the rise of employment during World War I and World War II provided some small benefits, but nothing close to ameliorating the extreme poverty found in the Round Valley region. Without the protection of federal Indian treaties, the Yuki and other Indian residents of the valley had few protections and almost no legal recourse. In 1936 the Round Valley Indian Tribe, a conglomeration of the descendants of several Native groups, including the Yuki, was recognized by the federal government, following the creation of a tribal constitution and government under the New Deal's Indian Reorganization Act of 1934. Despite federal recognition—something many California Indian groups are still battling for today—life remains difficult for the Native Americans of Round Valley. In the years following World War II, the reservation and its surrounding area have witnessed a steady economic decline. The most recent employment figures for the reservation suggest an unemployment rate of nearly ninety percent. Meanwhile, to the south, Eden Valley remains non-Native land.

Serranus Hastings, well known as a philanthropist, legal scholar, and California founding father, has a complicated legacy, one containing connections to the darkest chapter in the history of California. While one cannot say the \$100,000 endowment made by Hastings in 1878 was drawn entirely from monies generated by his real estate investments in Eden Valley, or the stock he raised and sold that had lived and grazed there, one can argue that some fractional portion of his total fortune certainly did emanate from there—and thus from his actions supporting atrocities against Native Americans, especially the Yuki of Eden and Round valleys. While many white Californians in the nineteenth-century California had blood on their hands, either by participation, complicity, or silent acceptance of atrocity, Hastings' involvement in this episode was nonetheless significant.

Exhibit B

Copy of relevant provisions of the
Education Code §§ 92200 et seq.

Code: Section: [Up^](#) [Add To My Favorites](#)**EDUCATION CODE - EDC****TITLE 3. POSTSECONDARY EDUCATION [66000 - 101060]** (Title 3 enacted by Stats. 1976, Ch. 1010.)**DIVISION 9. UNIVERSITY OF CALIFORNIA [92000 - 92961]** (Division 9 enacted by Stats. 1976, Ch. 1010.)**PART 57. UNIVERSITY OF CALIFORNIA [92000 - 92988]** (Part 57 enacted by Stats. 1976, Ch. 1010.)**CHAPTER 3. Special Colleges [92200 - 92215]** (Chapter 3 enacted by Stats. 1976, Ch. 1010.)**ARTICLE 1. Hastings College of the Law [92200 - 92215]** (Article 1 enacted by Stats. 1976, Ch. 1010.)

92200. The law college founded and established by S. C. Hastings shall forever be known and designated as the Hastings College of the Law.

(Enacted by Stats. 1976, Ch. 1010.)

92201. The college is affiliated with the University of California, and is the law department thereof.

(Enacted by Stats. 1976, Ch. 1010.)

92202. The college shall afford facilities for the acquisition of legal learning in all branches of the law. To this end it shall establish a curriculum of studies and shall matriculate students who reside at the University of California or elsewhere in the state.

(Enacted by Stats. 1976, Ch. 1010.)

92203. The faculty of the University of California shall grant, and the president shall sign and issue, diplomas to the students of the college.

(Enacted by Stats. 1976, Ch. 1010.)

92204. The business of the college, which includes the power to incur indebtedness, shall be managed by the board of directors. Six directors constitute a quorum for the transaction of all business. The directors shall serve without compensation.

One of the directors shall always be an heir or representative of S.C. Hastings. All other directors taking office after January 1, 1981, shall serve for terms of 12 years. Directors in office prior to January 1, 1981, shall serve for the terms provided in the bylaws of the college in effect on that date.

(Amended by Stats. 1980, Ch. 1155, Sec. 31.6.)

92205. In the investment and management of endowment funds and properties under its jurisdiction, the Board of Directors of the Hastings College of the Law shall comply, to the extent practicable, with the endowment investment and management policies of the Regents of the University of California. Any variance from the endowment investment and management policies of the regents shall be presented to, and reviewed by, the board, which shall adopt a resolution specifying the reasons for the variance. In addition, the board shall comply with all of the following requirements:

(a) The utilization of funds shall be in accordance with the terms specified by the donor.

(b) Prior to the delegation of any authority to engage in making investments, reallocations, or reinvestments of endowment funds on its behalf, the board shall seek and review the written opinion of the general counsel regarding the propriety of the proposed action under the endowment investment and management policies of the regents then in effect.

(c) "Endowment fund" means a fund derived from a gift, bequest, or grant, the terms of which stipulate that the fund principal remain inviolate and that only the income may be expended.

(d) Annual audits shall be conducted by a certified public accountant firm in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(Amended by Stats. 1992, Ch. 31, Sec. 1. Effective January 1, 1993.)

92205.5. It is the intent of the Legislature that the Regents of the University of California provide for a review of the annual audits conducted pursuant to subdivision (d) of Section 92205 and annually report any violations revealed by these audits to the Board of Directors of the Hastings College of the Law, to the appropriate fiscal and policy committees of the Legislature, and to the Legislative Analyst.

(Amended by Stats. 1992, Ch. 31, Sec. 2. Effective January 1, 1993.)

92206. Vacancies occurring in the board of directors after January 1, 1981, other than through the death or resignation of the heir or representative of S.C. Hastings, shall be filled by the Governor and approved by the Senate, a majority of the membership concurring.

(Amended by Stats. 1980, Ch. 1155, Sec. 31.8.)

92207. The officers of the college are a dean, a registrar, and 11 directors. The dean and registrar shall be appointed by, and may be removed by the board of directors.

(Amended by Stats. 1980, Ch. 1155, Sec. 31.9.)

92209. The dean of the college is ex officio a member of the faculty of the University of California.

(Enacted by Stats. 1976, Ch. 1010.)

92210. Professorships may be established in the name of any founder who pays to the college the sum of one hundred thousand dollars (\$100,000) or such greater sum as may be determined by the directors.

(Amended by Stats. 1980, Ch. 1155, Sec. 31.11.)

92211. The sum of 7 percent per annum upon one hundred thousand dollars (\$100,000) shall be appropriated annually by the state and shall be paid in semiannual payments to the directors of the college.

(Enacted by Stats. 1976, Ch. 1010.)

92212. If the state fails to pay to the directors of the college the sum of seven thousand dollars (\$7,000) annually, pursuant to Section 92211, or if the college ceases to exist, the state shall pay to the heirs or legal representatives of S. C. Hastings, the sum of one hundred thousand dollars (\$100,000), and all unexpended accumulated interest, unless the failure is caused by mistake or accident, or the omission of the Legislature to make the appropriation at any one session.

(Enacted by Stats. 1976, Ch. 1010.)

92213. All courses by the college at Sacramento shall be deemed to be given at the site of the college in San Francisco.

(Enacted by Stats. 1976, Ch. 1010.)

92214. The Director of General Services shall transfer the property located at 55 and 75 Hyde Street in the City and County of San Francisco to the University of California to be used for the benefit of the Hastings College of the Law for school purposes.

The university shall have the power to sell or lease the property to a nonprofit corporation in order to provide housing facilities for the students, faculty, and employees of the college.

If such property is sold, it shall be sold for its fair market value, with such valuation approved by the Department of Finance, and the proceeds of the sale shall be deposited in the General Fund. If such property is leased, the proceeds of the lease shall be deposited in the General Fund.

(Enacted by Stats. 1976, Ch. 1010.)

92215. The power to incur indebtedness pursuant to Section 92204 shall include, but is not limited to, the power to issue revenue bonds in the name of the board of directors and as obligations of the board of directors. Revenue bonds may be issued pursuant to the provisions of Chapter 5 (commencing with Section 92400) of Part 57 and, for such purposes, the board of directors shall have the same powers to issue revenue bonds for the benefit of the Hastings College of the Law as are conferred upon the Regents of the University of California for the benefit of the University of California by Chapter 5 (commencing with Section 92400) of Part 57 and shall be subject to the limitations imposed therein. Any such bonds issued for the benefit of the Hastings College of the Law shall be issued in the name of Hastings College of the Law without using the name of the University of California.

(Added by Stats. 1979, Ch. 325.)

Exhibit C

Copy of the March 26, 1878 Act to Create
Hastings College of the Law, in the
University of the State of California

UNIVERSITY OF CALIFORNIA
HASTINGS COLLEGE OF THE LAW

200 McALLISTER STREET
SAN FRANCISCO, CA 94102-4978

**LEGAL STATUS OF
HASTINGS COLLEGE OF THE LAW**

- The Act creating Hastings College of the Law, March 26, 1878 (copy attached), was enacted prior to the time the University of California was elevated to constitutional status.
- It states that:
 - (1) S. C. Hastings be authorized to found and establish a law college whose officers shall be a Dean, Registrar, and eight directors who shall, when vacancies occur, fill the same from members of the Bar Association of the City of San Francisco with always one director being some heir or representative of S. C. Hastings;
 - (2) that the Law College shall affiliate with the University of the State upon such terms as shall be for the welfare of the College and the University; and
 - (3) that the College shall be the Law Department of the University.
- The University was elevated to constitutional status in 1879. The Constitution provided that there was to be no change in the substantive law relating to the University and the institutions that had been previously affiliated. The new constitutional provision specifically provided that "The University..., and its organization and government shall be perpetually continued in the same form and character prescribed by the Organic Act creating the same..."
- As early as 1879, the Supreme Court ruled that the College should affiliate with the University and be governed by the laws applicable to the University "...except as otherwise provided, either in the act of 1868 or in the act of 1878..." (Foltz vs. Hoge, 54 Cal. 28)
- More recently, in 1987, the Court of Appeals, in Tofoya vs. Hastings College of the Law, had this to say: "Thus, in the only two cases concerning the status of Hastings to reach our highest court, it has been affirmed that Hastings is an affiliate of and governed by the same laws as the University."
- The California Education Code provisions governing the University of California apply to Hastings. Section 92201 provides that Hastings is affiliated with the University and is the Law Department of the University.
- While there is no formal written agreement between the University and Hastings, there is ample evidence of a cooperative, friendly relationship which has lasted 112 years.

TWENTY-SECOND SESSION.

fourteenth, in the year one thousand eight hundred and seventy-six, and of May seventh, and October first, of the year one thousand eight hundred and seventy-seven, are hereby in all things ratified and confirmed and made valid.

SEC. 4. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed, and this Act shall take effect immediately.

CHAP. CCCL.—[See volume of *Amendments to the Codes*.]

CHAP. CCCLI.—*An Act to create Hastings' College of the Law, in the University of the State of California.*

[Approved March 26, 1878.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. That S. C. Hastings be authorized to found and establish a Law College, to be forever known and designated as "Hastings' College of the Law." That the officers of said college shall be a Dean, Registrar, and eight (8) Directors. That the Directors shall be Joseph P. Hoge, W. W. Cope, Delos Lake, Saml. M. Wilson, O. P. Evans, Thos. B. Bishop, John R. Sharpstein, and Thos. I. Bergin, of the Bar Association of the City of San Francisco, who shall, when vacancies occur, fill the same from members of said Association or otherwise, and shall always provide for filling a vacancy with some heir or some representative of the said S. C. Hastings. That the Dean and Registrar shall be appointed by the Directors. Authorizing founding of Law College.

SEC. 2. Said College shall affiliate with the University of the State, upon such terms as shall be for the welfare of the College and University, and shall be the Law Department of the University. Shall affiliate with University.

SEC. 3. The Faculty of the University shall grant diplomas to the students of the College, and the President shall sign and issue the diplomas.

SEC. 4. There shall be set apart for the use of the students of the College some room or suitable hall at the University, and the Board of Supervisors of the City of San Francisco is authorized to supply a suitable hall in the City of San Francisco for the students and Directors. Room for students.

SEC. 5. The Dean of said College shall be ex officio of the Faculty of the University, to be designated as such by the Directors of the College.

SEC. 6. The diploma of the students shall entitle the student to whom it is issued to a license to practice in all the Diploma made license to practice.

Courts of this State, subject to right of the Chief Justice of the State to order an examination, as is in ordinary cases of applicants without such diploma.

Condition.

SEC. 7. This Act is passed upon the condition that said S. C. Hastings shall pay into the State treasury the sum of one hundred thousand dollars, and is never to be refunded except as hereinafter provided.

SEC. 8. The sum of seven per cent. per annum upon one hundred (\$100,000) thousand dollars is to be appropriated by the State and paid in two semi-annual payments to the Directors of the College.

Business of College.

SEC. 9. The business of the College shall be to afford facilities for the acquisition of legal learning in all branches of the law, and to this end shall establish a curriculum of studies, and shall matriculate students who may reside at the University of the State as well as students residing in other parts of the State.

SEC. 10. Professorships may be established in the name of any founder of such Professorships who shall pay to the Directors the sum of thirty (\$30,000) thousand dollars.

SEC. 11. All the business of the College shall be managed by the Directors without compensation, and all acting officers, including the Dean and Registrar, shall be appointed by the Directors and removed by them.

SEC. 12. The Law Library Association, of the City of San Francisco, shall grant to the students the use of their library upon such terms and conditions as they may agree with the Directors of the College.

Object of Act.

SEC. 13. The object of this Act being to grant a perpetual annuity for the support and maintenance of said College, should the State, or any government which shall succeed it, fail to pay to the Directors of said College the sum of seven per cent. per annum, as above stipulated, or should the College cease to exist, then the State, or its successor, shall pay to the said S. C. Hastings, his heirs or legal representatives, the said sum of one hundred (\$100,000) thousand dollars and all unexpended accumulated interest; *provided*, that such failure be not caused by mistake or accident, or omission of the Legislature to make the appropriation at any one session.

SEC. 14. That the Chief Justice of the Supreme Court of the State (or if there be no such judicial officer of the State or Government) shall be the President of the Board of Directors, five of whom shall be a quorum to transact all business.

SEC. 15. This Act shall take effect and be in force from and after its passage.

Exhibit D

Paul Laurin's Dissenting Views on Re-naming

Response Comments Regarding Proposed Recommendations of HLRC: Statement of Paul J,
Laurin of May 19, 2020

A moment on process: Recently the tempo of decision-making for the HLRC has loped ahead, in part on non-controversial matters but also as to controversial ones. Late last year after Anne Marie Helm departed essential aspects of what we intended to do were abandoned, as far as I can tell without much discussion. I have felt since last month, in the midst of a global pandemic, that a “cram-down” of a minority view is underway on the critical issue of naming of the College. Given the process, written plan and substantial efforts undertaken since 2017 I believe fundamental fairness mandates that the vital process of discussion and debate over name change occur over an appropriate schedule and slow down. We have not completed that process. In fact, we have just begun it. If there are gripping concerns about the existential threat such action poses to the College, this is a place to air that. Cramming a recommendation through is not going to provide the closure and healing we should be encouraging by our process.

Now more substantive comments which I will asked to appended to any report submitted as presently formulated:

The HLRC is poised to make a historic and disturbing finding on the conduct of its founder. Serranus Hastings did not use his position of power and prestige as he should have, on that we all seem to agree. However, the full measure of the public morality of the man remains somewhat obscured behind some of his outsized accomplishments. But that he was significantly responsible for genocidal atrocities against the native peoples of Round Valley is not in dispute.

Going back years, what initiated our endeavor was the public condemnation of SH and call for a reexamination of the naming of the college for a historical figure possessed of such dubious appetite and ambition to accumulate wealth at the expense of others.

What we have learned in viewing the specific acts of Hastings and his cohorts in the Round Valley has only served to solidify the view that Hastings was capable of, and likely engaged, in reprehensible brutality directed against native peoples. One can be confident it likely did not end there. But the analysis remains unclear in putting the man into broader context of the other events of the day such as the Civil War, slavery and immigrant exploitation.

It is disturbing to confront such a character as the progenitor of the school and realize he reflects the dark professional ethos of a preeminent lawyer and jurist of the time in California.

This is a hard and unpleasant task. But it is vital that it be done because treatment of native peoples and race stand so central to the North American experience.

I submit that the report as drafted with its recommendation on name changing *fundamentally has failed* to do what the committee set out to do: That is, to robustly grapple with and deliberate the public policy implications of name change, fully informed by pertinent historical context, legal analysis and critical community input from the alumni and broader community.

Now we must acknowledge his name will be inescapably associated with the most inconceivable of crimes, made more inconceivable because of the stature he enjoyed. And his name is the name many of us carry on our diplomas.

I know this *fundamental failure* of the committee has occurred because I spent hours reconstructing the committee's timeline. In doing so I was disappointed, because I felt much time, effort and good will had been dismissed.

I am also dismayed because I feel a critical opportunity to do right by an open and fairly informed process is being rejected on an accelerated timeline amidst a great global crisis.

I also believe the short shrift given to name change in the report and the Committee perhaps misses a broader and critical opportunity for the law school, within the broader context of the University of California.

I view my role in serving as not only a single alumnus and life-long Californian educated entirely in its public education system, but also as the former president of the BOG, the volunteer board of the 20,000 plus member alumni association—for 4 years I served on the BOG. It is *the* group dedicated to and predicated upon promoting alumni engagement and inclusion in the ongoing life of the college.

Sadly, those alumni are being excluded and rebuffed in a fundamental way by this process.

In June 2018, Professor Schiller wrote a carefully considered and reasoned memo for the Subcommittee on Renaming entitled Proposal Regarding Renaming. [I will submit it with this statement.]

I literally was the sole dissenter from its reasoned view that the committee could not as a fundamental organic matter credibly make a name change recommendation. The memo submitted (while I was in Europe) literally says:

- [i]t is imperative that the decision [on name change] be made only after a robust, transparent process that includes input from all stakeholders.
- [It further states] Notwithstanding Professor's Lindsey's report, "the Committee believes that there is some historical information with respect to other aspects of Hastings' life , as well as substantial non-historical information with respect to the consequences of renaming that have not been generated."
- Finally, in crafting the guidance on naming considerations, Professor Schiller for the subcommittee expressed discomfort at applying the principles to a specific instance, stating "One of the basic assumptions of the rule of law is that there be a substantial separation between the institutions that craft the rules of general applicability and those that apply those rules to specific cases."
- [That is to say, the Committee in identify appropriate considerations should not also engage applying them.]

I do not believe these recommendations were rejected but instead the Committee (in part at my recommendation stated as a “disagreement”) chose to leave the record open and develop it to see where it would lead. Principal in doing so was the expectation, stated by Professor Schiller, that the Committee would retain outside counsel to advise on bequests and donative issues as well generate information on Constitutional and Legislative issues.

Professor Schiller’s reluctance to recommend name change was not embraced in June 2018. Instead the Committee undertook to fully develop the record, get advice on pertinent legal and legislative issues, seek community input and then revisit the issue.

Since we clearly have not done that, this raises the question what has changed since then regarding the issues informing name change (as contrasted with the very significant work done on restorative programs at the college) then: As far as I can tell, Nothing. Nothing but the conclusion that the difficulties and impediments of an easy and conservative approach are worth abandoning these vital inputs.

When I reviewed my archives, I realized Anne Marie Helm lead the subcommittee on a community survey. Multiple drafts were exchanged. I found extensive discussion all the way through July 2019. Chief Marketing Officer, Alex Shapiro, was brought in expressly to support the technological roll out of an online survey to alumni and the community.

I was not notified and found no reference in the meeting reports of any determination to abandoned that important process. But Ms. Helm, Mr. Shapiro, John McCoy and Elise Traynum have all departed the college, and with them apparently the impetus to organize the effort at soliciting community opinion and further input and analysis.

In late 2019 after Anne Marie’s departure and until February, 2020, I located no HLRC communications regarding the survey or name change issues.

Then, in notes of the February 27, 2020 meeting *I see a refence to the report being presented in person—it was not circulated to me by email. (I was absent due a death in the family and notified the Chairman of that circumstance..)*

Then on April 2, 2020, well after the emergence of our tragic global pandemic, the report was circulated by email for the first time to me with, again for the first time to my knowledge, an affirmative recommendation for no name change. The email directed an up or down vote on the lengthy report within 13 days. Revisions were submitted on April 23, requesting a vote within 7 days. I and others voiced concerns over the surprising fast tracking of the report, including a new and central conclusion on name change. Initial reassurances of more time were followed by a May 11 email rejecting the requests for more time and discussions and directing a vote within 3 days. At the suggestion of Professor Schiller acknowledging, this conference was set up. I believe with the objective of convincing me to join a putative majority.

But this approach is a big mistake. Given the absence of community input, legal analysis and historical context, if any recommendation is to be made it should be to create a study group to do

that work and really look seriously and pragmatically at name change. Exactly what Professor Schiller concluded so emphatically on the record as it existed in 2018.

On the current record, which we undertook to develop, I find myself in the position Professor Schiller was in in 2018, feeling that we lack the critical input necessary for the robust discussion and careful deliberation that his report contemplated and the committee endorsed.

In short, on this record I do not believe it appropriate for the committee to now issue a recommendation on the re-naming. In effect, we have only started the necessary discussions and we don't have all the data we agreed and worked toward generating for over a year. I do concur whole-heartedly in the programs of restorative justice advanced by the committee. They are a tangible and a powerful way of channeling the law school's resources and energies.

If we must rush forward, even in the face of global pandemic, on name change I support a statement of pros and cons only. But I would prefer to complete the work we undertook and I have spent years attending to.

Some final words on perspective and opportunities:

In this new age in which we live, I submit that *the benefits* of name-change should be carefully considered, and not assumed to be disruptive and upsetting to a status quo which frankly faces deep challenges financially and perhaps culturally as well. A couple data points bear stating, in March 2020, due to Covid- 19 UC law schools reported the need for funding of tens of millions in unexpected expenses. Further, I have read reports that amongst public law schools and UC law schools in particular, UC Hastings' students carry the largest load of student debt.

In a nation in which the "student class" is burdened by over a trillion in student debt and economic recovery hinges in part on the successful transition of these new professionals to productive economic life, I believe the Board of Directors must think outside the box—perhaps dramatically so—and that name-change might be exactly a course to chart a new approach to revamp UC Hastings' historical insular identity.

But this is not to detract from the main thrust of what I have seen as the HLRC function, to assess Serannus Hastings' conduct, a point that buttresses my sympathy for name change.

I note that public comment on Judge Hastings' conduct dates back at least to 2007 in internet-available articles. Hastings was expert in utilizing "externalities" to shift to the State the substantial expenses of clearing his claimed lands and perpetuating a slave system predicated on terror, killings, rapes, and forced family separation which funneled into the slave camp known as the Nome Cult Farm, where one could eat only if one could work.

This system of liquidation, enslavement and shifting of externalities is, and I believe the committee has found it, "genocidal", with all that terms carries with it.

We now live in a world of fundamental changes and his antiquely worded sentiments take on new significance. In the *Me Too*, post-Charlottesville, *Black Lives Matter*, *Standing Rock* era, I am concerned we run the risk of missing the tidal changes in attitudes and values with which all our boats may be lifted. Perhaps these are the polemics the report suggests we can and should avoid. For sure, we understand that these issues inform the cultural matrix through which the Board must act, and, ultimately, may be judged. But now with Covid 19, no greater invitation to re-imagining the future could exist.

It is hard for me to conceive the impact it will have if we recognize “significant proof” of genocidal atrocities, a truly monumental placard in the history of the institution, yet still stand by the surname *in perpetuity*. I am concerned we are at risk of grave minimization by way of the banalization of the term “genocide”.

When we started there were apprehensions, even outright resistance to calling this conduct a “genocide.” Aside from ignoring the process we agreed to, I am concerned the proposed recommendation on name change does not adequately reflected the significance of the findings we are now subscribing to. Once the school itself accepts that proposition (genocidal atrocities by its founder), even by way of ad hoc assessment, I think the obligation to act with utmost care and sensitivity must be apparent, and should ultimately repose with the Board as the chief policy making body of the law school.

In this regard, the recommendation misses a critical opportunity to respond to the “Moral Case for Renaming” the school as it was raised in the 2017 SF Chronicle article. I don’t think it is enough to say we will be criticized either way we go. What are the moral issues, and where do they lead? Professor Shiller provided a very detailed road map for these consideration.

I am sure there are substantial pockets of attachment to the name, perhaps deep ones. Yet why not think in terms of the naming alternatives, which could be substantial for the law school at this very difficult time. I note a recent article outlining a \$50 million gift given by former dean Gordon Rausser to the College of Natural Resource’s at Berkeley in February of this year (<https://news.berkeley.edu/2020/02/29/college-of-natural-resources-receives-50-million-naming-gift/>). In these extraordinarily challenging economic times, when the very existence of significant components of the higher education system and the welfare of the “student class” is at issue, I believe our analysis should be more robust on the subject of real and tangible benefits of name-change.

For my own part, and those I informally poll, it is hard to justify retaining a name for the school of a confirmed human rights’ criminal. If any fight would be worth fighting, it would seem that would be it. In any event, it may be justified. On the issue the alumni should be heard. Position papers and discussion should be encouraged, as we planned they would be.

Therefore, I dissent from any naming recommendation without completing our tasks, undertaken and now abandoned, of alumni outreach, legal analysis and historical contextualization.

I am reminded of one of the first events at the College I attended: a lecture by William Brennan entitled “In Defense of Dissents.” I hope in that spirit my dissent serves the ends of fair process.

APPENDIX B

**HASTINGS LEGACY REVIEW COMMITTEE
UC HASTINGS COLLEGE OF THE LAW
Summary of Report and Recommendations**

HASTINGS LEGACY REVIEW COMMITTEE
UC HASTINGS COLLEGE OF THE LAW

Summary of Report and Recommendations

submitted to Chancellor & Dean David Faigman, July 29, 2020

1. The Hastings Legacy Review Committee (HLRC) was formed by Chancellor & Dean David Faigman in August 2017. The HLRC was asked to examine the historical involvement of founder Serranus Clinton Hastings in mass killings of California Native Americans in the Eden and Round Valleys in Northern California in the 1850's and 1860's. The HLRC was also asked to make recommendations for any action that should be taken by the College. The HLRC completed its Report and Recommendations and submitted it to the Chancellor & Dean on July 29, 2020.
2. As part of the Committee's work, Professor Brendan Lindsay of Sacramento State University, author of Murder State: California's Native American Genocide, 1846-1873, was commissioned to research and write a historical paper describing Serranus Hastings' actions in the Round and Eden Valleys. Professor Lindsay completed a white paper that corroborated the historical narrative that Serranus Hastings bears significant responsibility for violence against Native Americans in eastern Mendocino County in 1859, and in particular against the Yuki people. A detailed summary is included with the Report and Recommendations of the HLRC.
3. The HLRC reached out to the Round Valley Indian Tribes (RVIT) and other tribal organizations to discuss the development of a relationship with the modern descendants of the affected tribal communities and to pursue restorative justice programs and activities to heal the historical wrongs. Based on the positive response, HLRC reached a consensus to develop collaborative and supportive programs to benefit the affected tribal communities and to develop a restorative justice agenda, academic engagement and public awareness.
4. The HLRC considered the pros and cons of changing the name of the College. Pros included, among other things, that failure to change the name would signal insensitivity to the profoundly negative impact that Serranus Hastings' legacy had on the affected community, resulting in adverse publicity and reputational damage. Cons included, among other things, that changing the name would lead to confusion and reputational injury of another sort – that the Hastings name is associated with the College, not the man. In other words, the name has taken on a secondary meaning not associated with Serranus Hastings. Additionally, the RVIT, which includes the descendants of the affected tribal community, was not in favor of the name change, as it would constitute “erasure” and remove the opportunity to contextualize, and seek restorative justice for, the gruesome and repugnant historical acts in which Serranus Hastings was complicit.
5. The HLRC did not do an in-depth analysis of the potential costs and impact of changing the College's name, but the committee members as a whole agreed the name should not be changed at this time. Rather, a significant number of the committee urged the Chancellor & Dean to leave open the question for further study and review as appropriate. One Committee member dissented

on the process used by the Committee and called for more study and the conduct of surveys of alumni and relevant communities. However, the Committee unanimously set as its highest priority the restorative justice programs and assistance directed at reconciliation and healing with the affected tribal community.

6. The HLRC set forth multiple recommendations to the Chancellor & Dean, including the following, as abridged for this summary:

- the formation of a 501(c)(3) entity in association with, and jointly governed by, the RVIT, to provide an organizational structure to address various tribal needs;
- structure relevant clinical or experiential education programs;
- reach out to and engage with Governor Newsom's Tribal Advisor and the Truth and Healing Council;
- organize Hastings-connected pro bono attorneys in connection with this effort;
- assist tribal leaders with various legal and tribal cultural needs;
- assist with the legal aspects of establishing a museum or cultural center in Round Valley and related projects;
- establish a lecture series with guest speakers, tribal elders, and others dealing with "Righting the Wrongs;"
- seek grant opportunities towards concerns of the tribal leadership;
- dedicate a memorial to the Yuki people at an appropriate location within the Hastings campus, with display panels, historical explanations and cultural presentations;
- provide a fully-functional, interactive public website to focused on the historical, academic, and programmatic work and the related restorative justice agenda; and
- promote and encourage legal education for Native American students, including engagement of a faculty chair for the establishment of an Indian Law Center at Hastings.

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APPENDIX C

**NOTE AND PETITION TO CHANCELLOR &
DEAN FAIGMAN FROM JUSTICE LAMBDEN**

JUSTICE JAMES LAMBDEN

CALIFORNIA COURT OF APPEAL (RET.)

350 SAINT CATHERINE'S SQUARE

BENICIA, CALIFORNIA 94510

Dean Fuigman

We wanted to let you and the Board know that we sent the enclosed packet to more than 100 well known Hastings graduates; and we will report the responses that we receive.

sincerely
James Lambden

P.S. Please note that we are not advocating that the school's name be changed.

To the Friends of Hastings College of the Law:

We find ourselves in a moment of heightened consciousness of our country's history and of the enduring social inequality that resulted from oppression of some of our people, including Native Americans.

This renewed interest in social justice presents another opportunity to acknowledge the historical reality of Justice Serranus Clinton Hastings, the source of the founding endowment of California's first law school.

We ask you to consider signing the enclosed request for a resolution that would recognize the need to re-examine what it means to have a premier law school bear Judge Hastings' name, and to encourage and develop a comprehensive study of his role in the history of California and, more broadly, of racial justice in the legal history of California.

We hope to send the letter to Dean David Faigman and the Board of Directors this month.


Justice James Lambden (Hastings, 1975)

California Court of Appeal (Ret.)

Former Chairperson Judicial Council Committee on Access and Fairness

Former Chairperson California Commission on Access to Justice

Founding Member, California Tribal/State Court Forum



Justice Joseph Grodin

California Supreme Court (Ret.)

Hastings Professor Emeritus



Judge Thelton Henderson (Ret.)

U.S. District Court, Northern District of California



Justice Maria Rivera (Ret.)

California Court of Appeal

Former Chairperson Judicial Council Committee on Access and Fairness

San Francisco, California

San Francisco, California
August, 2020

To Dean Faigman and the Board of Directors of Hastings College of the Law:

At the first meeting of the newly formed California's Tribal Court/State Court Forum in December of 2010 an awkward silence filled the room when it was announced that the Tribal courts would have access to the California Judicial Council's "Serranus" website.

All of the tribal judges who were present knew that California's first Chief Justice, Serranus Clinton Hastings was actively involved in the genocidal theft of tribal ancestral land before he headed the Supreme Court. He thereby became one of the wealthiest men in the state and founded Hastings College of the Law in 1878. His complicity in the theft of native land and the murder of indigenous people has been well documented (*see attached*).

We are asking that you resolve: to re-examine what it means to have a premier law school bear Judge Hastings' name, considered in particular from the perspective of the original Tribal inhabitants; to take the lead in developing an introductory course on the historical context and development of the law in California (including Hastings' role in that history); and to make a robust commitment to the examination of racial justice in its curriculum.

This is not intended to "cancel" Justice Hastings. It is intended to be part of a larger effort to educate our law students more comprehensively regarding California's legal history—not just the great, but also the loathsome. As a wise woman recently wrote, "we must find a way to move from the merely celebratory to the pedagogical mode for complex figures in our history. We need to know about them fully, not just what we admire. Erasing them is not the way we can learn and change."

If not now, when?

Signed: _____

_____ (please print name and class year)
(and return in the enclosed envelope)

THE MORAL CASE FOR RENAMING HASTINGS COLLEGE OF THE LAW

by John Briscoe

San Francisco Chronicle, July 8, 2017

In America's ever-evolving relations with race, we ride a new wave of sensibility. A moment's reflection reveals the extent that our streets, schools, buildings — even our nation's capital — are named for slaveholders. Many more, no doubt, are named for “mere” racists.

A college at Yale no longer bears the name of John C. Calhoun, in response to increasingly vocal outrage that Calhoun owned slaves and, perhaps worse, was an ardent and eloquent proponent of slavery.

The University of San Francisco just renamed its Phelan Hall, originally named for a former San Francisco mayor who railed against Chinese immigrants and whose campaign slogan was “Keep California white.” The hall is now named for legendary football star and magnanimous public servant Burl Toler, an African American.

In this rising crest of new awareness, where, in relation to slavery and racism, might we place genocide?

Between the first European “contact” in 1542 and 1834, the native Californian population dropped from 350,000 to 150,000. The causes of the population collapse were European diseases, abuse at the hands of the Spanish and suicides. After 1834, however, when the native population plummeted from 150,000 to 18,000, the cause was different: Indian hunting was sport for the mostly white gold-seekers and settlers. Indian-hunting raids nearly annihilated the population and had the added benefit of ridding the state of those who might assert their land rights, rights guaranteed under international law.

Serranus Clinton Hastings was promoter and financier of Indian-hunting expeditions in the 1850s. Hastings later founded Hastings College of Law in San Francisco, now the oldest law school in the state, and a part of the University of California system.

Leland Stanford solicited volunteers for his Civil War-era army campaigns against California Indians and, as governor, signed into law appropriations bills to fund those killing expeditions. He later founded Stanford University in the name of his son, Leland Stanford Jr. Both Hastings and Stanford had made fortunes in real estate.

Their ability to acquire land titles was facilitated by the massacre of the rightful claimants, a near-extinction they promoted and funded. As UCLA professor Benjamin Madley wrote in his sobering “An American Genocide,” published in 2016 by none other than Yale University Press, both Stanford and Hastings had “helped to facilitate genocide.”

Our rising sensibility obliterates the names of those who sought to enslave or discriminate against a people. How ought we treat the names of those who sought to exterminate a people?

John Briscoe is a Distinguished Fellow of the Law of the Sea Institute at UC Berkeley School of Law and an adjunct professor at UC Hastings College of the Law.

THE GENOCIDAL NAMESAKE OF THE HASTINGS SCHOOL OF LAW

by Bruce Anderson

Anderson Valley Advertiser, July 26, 2017



A stern visage, the very picture of 19th century rectitude, looked down on passersby from a banner at the corner of McAllister and Larkin, fin de siècle San Francisco. The banner celebrated the adjacent law school, which is named after Serranus Clinton Hastings, born in New York, law degree in Indiana, west to frontier Iowa where he was that state's first congressman and first chief justice, then out to California during the Gold Rush where he became Chief Justice of the California State Supreme Court.

Hastings, through his term as a congressman and founding legal father of the state of Iowa, was already a nationally-connected Democrat when he arrived in California in 1849 looking to add to the small fortune he'd made in Iowa real estate. He knew the Gold Rush also meant a land rush as thousands of Americans made their way into the under-populated state to make their fortunes. But Hastings preferred to look around for likely real estate and legal sinecures rather than pan for gold; and as he prospected for free land he also got himself a seat on California's early supreme court as its chief justice. The Mendocino Indians soon had the judge sitting on them in Eden Valley, near Covelo, which the judge had appropriated for himself as a horse and cattle ranch, remarking that he'd found the place "uninhabited except for some Uka Indians."

The foreman of Judge Hastings' Eden Valley ranch was a giant Texan named H.L. Hall, "Texan Boy Hall" as he was known, and a giant at 6'9" and 280 pounds, a doubly intimidating presence to the Indians who were still trying to adjust to the lethal unpredictability of ordinary-size white men when they first encountered Texan Boy, a recreational Indian killer who showed up with the first wave of white settlers in the Round Valley area in the middle 1850s, and may have killed more Indians than any other single American, including Kit Carson, the generally recognized champ.

While Hall ran Judge Hastings' ranch in Eden Valley, Hastings built himself a big house in Solano County, a remove which would later lend the judge what he seemed to think was

plausible deniability when his foreman became a little too notorious for his freelance retaliatory rampages against the Indians on the judge's behalf, and the judge reluctantly let Texan Boy go. A psychotic baby killer, after all, was an unseemly sort of employee for a state supreme court judge. Texan Boy, though, soon got a paid job killing Indians with Jarboe's Eel River Rangers.

The Indians had been casually murdered in every part of Mendocino County since the Gold Rush. And every year saw new and larger expeditions of both settlers and Army units sent out to kill them. But Judge Hastings, Texan Boy Hall and Walter Jarboe, in California's first public-private partnership, managed to convert dead Indians to cold cash in expeditions against them throughout the Eel River drainage, from Covelo to Hayfork, public funding arranged by Judge Hastings.

"A little more than a year ago, Hall of Eden Valley employed 13 Indians in place of pack mules to go and pack loads from Ukiah City to Eden Valley, and promised to give each one a shirt in payment; the distance, I think, is about 40 miles. The Indians commenced complaining at not receiving the shirts, and he, Hall, whipped two of them, to keep them quiet; he said he never gave them the shirts after he whipped them." (Indians War Files) In retaliation for not getting their shirts from the judge and Texan Boy, the Indians, knowing exactly on whose behalf Texan Boy was acting, killed Judge Hastings's \$2,000 stallion. At the time, no white man in Mendocino County was in danger of drowning in the milk of human kindness, but Judge Hastings and Texan Boy Hall were extreme even by the frontier standards of 1856.

In retaliation for the death of Judge Hastings' stallion, neighboring rancher William T. Scott would testify, Texan Boy got up a gang of his friends and "commenced killing all the Indians they could find in the mountains; when Hall met Indians he would kill them. He did not want any man to go with him to hunt Indians who would not kill all he could find, because a knit (sic) would make a louse. Mr. Hall said he had run Indians out of their rancherias and put strychnine in their baskets of soup, or what they had to eat."

Scott related another incident when Hall, having killed all the adult males among a group of Yuki Indians he'd encountered near Covelo, took some women and children into his custody with the apparent aim of taking them in to the reservation at Covelo. "I think all the squaws were killed because they refused to go further. We took one boy into the valley, and the infants were put out of their misery, and a girl ten years of age was killed for stubbornness."

But Judge Hastings was still unhappy about the Indians killing his stallion, and he seemed to consider Texan Boy's random revenges inadequate pay back for the loss of the horse. The judge wanted *all* the Indians of inland Mendocino, Humboldt and Trinity counties permanently gone. On July 11, 1859, the judge called 16 Covelo-area settlers together who all signed a declaration selecting "Walter S. Jarboe as Captain of our Company of Volunteers against the Euka Indians."

Of course Texan Boy Hall was first among Jarboe's Rangers. Texan Boy would be paid to kill Indians, for him the best of all possible worlds, and Hastings, the state's number one judge, had no trouble persuading the state legislature to pay Jarboe and his Rangers to

empty inland Mendocino County of all the Indians Jarboe's Eel River Rangers could find to kill.

The Indians didn't have horses and they didn't have guns. Jarboe and Hall and their Rangers would typically ride down on Indian rancherias at dawn, slaughtering men, women and children right down to infants. The only casualties the white warriors suffered was an occasional non-combat injury unrelated to their one-way war. Bows and arrows were no match for dragoons, and certainly no match for the Chief Justice of the California State Supreme Court.

The newspapers of Northern California regularly urged extermination of the Indians, so when news of large scale murder drifted out of the seemingly infinite recesses of an area larger than some states, an area which is today bordered by I-5 to the east and 101 on the west, Clearlake to the south, and the Trinity mountains to the north, they were blithely reported like this:

"Massacre of Indians in Mendocino — Captain Jarboe's Rangers attacked an Indian ranch eight miles from Indian Valley, Mendocino County, lately, killing quite a number. Hall, the 'Texan Boy,' 6 feet 9 inches high, and weighing 278 pounds, who is the dread of all red skins, a week or two ago killed two Indians in a fair fight..." (The Napa Reporter, August 22, 1859)

By the end of the Civil War, and certainly by 1870, the Indians were finished. They'd fought back as best they could without the horses and guns their enemies possessed, but they'd been hit so hard and so fast all they could do was fight on the run, retreating right on into extinction.

Judge Hastings, attorney, jurist, rancher, real estate developer, and mass murderer is memorialized as the Hastings School of Law, San Francisco. Pioneer Ukiah made Walter Jarboe the town's first law enforcement officer. A man named James Jarboe is contemporary America's domestic terrorism section chief for the FBI, which may or may not be of historical significance, as may or may not be a very large Covelo horseman named Hall, as in Texan Boy Hall, who is presently confined to the state hospital at Napa. A New Age impresario calling himself TimoThy is trying to buy Eden Valley to convert it to an "Earth Village sustainable community" featuring "a straw bale roundhouse" and cabins for TimoThy's followers that would be called "earth arks." For \$33,000 you can buy in. Funny thing is, Eden Valley fully sustained people for 12,000 years before Judge Hastings and Texan Boy moved their horses and cows in on them and started killing them. Eden Valley was already an earth ark.

Hastings bequeathed several million dollars to the fledgling University of California. In gratitude, the University named its new law school after him.

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AND SEE: Murder State, California's Native American Genocide 1846-1873, Brendan C. Lindsay, University of Nebraska Press 2012; and An American Genocide, the United States and California Indian Catastrophe, Benjamin Madley, Yale University Press 2016)

Faigman Declaration

Ex. 4

NewsRoom

7/3/21 Sacramento Bee 903

2021 WLNR 21571698

Sacramento Bee, The (CA)

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July 3, 2021

UC Hastings namesake killed, displaced California tribes. But changing name isn't enough

By James Russ and David L. Faigman, The Sacramento Bee

While no one living today enslaved African Americans or carried out genocide against Native Americans, our world is a product of those past injustices. What do those living today owe for the crimes against humanity perpetrated by their forebearers, of which some may be indirect beneficiaries?

For the two of us, this question is not an academic exercise. One of us, James Russ, is president of the Round Valley Indian Tribes (RVIT), a Sovereign Nation of Seven Confederated Tribes. The other, David Faigman, is chancellor and dean of UC Hastings Law in San Francisco. Over 150 years ago, the founder of Faigman's law school promoted and financed expeditions to kill the indigenous population in and around the Eden and Round Valleys in Northern California.

In the mid-19th century, genocide of Native Americans was effectively the official policy of the California and federal governments. Serranus Hastings helped lead these efforts and profited greatly from the killing and displacement of Indigenous peoples. His primary targets were the Yuki Indians — a name bestowed upon them meaning "enemy" in the Wintun language — who were located on lands he claimed as his own. The result was that numerous Yuki were killed and virtually all others were displaced or forced into bondage.

Hastings later became the first chief justice of the California Supreme Court and, in 1878, he donated \$100,000 in gold coin for the state to establish the first law department of the University of California in his name.

Opinion label

In a white paper commissioned for the school, historian Brendan Lindsay, author of "Murder State: California's Native American Genocide, 1846-1873," found that the crimes committed against Indigenous peoples by Hastings and scores of others continue to reverberate today. Multiple tribes were commanded onto the Round Valley Indian Reservation in 1863, many of which harbored historical animosities toward one another. The Yuki no longer formed the core population of Round Valley, now outnumbered by other tribes, some from many miles away. As Lindsay observed, the "reservation remained a horrific place for internees. Natives Americans, in addition to the continued specter of violence, rape, and kidnap, suffered from malnutrition, disease, and exposure."

In 1936, RVIT, a conglomeration of the descendants of several tribes, including the Yuki, achieved recognition by the federal government. Despite federal recognition — something many California Indian groups are still battling for — life remains

difficult for the Native Americans of Round Valley. Since World War II, the reservation and its surrounding area have witnessed a steady economic decline.

In 2017, UC Hastings began examining its founder's criminal acts and reached out to the Tribal Council of the RVIT. Like the reckonings taking place at other institutions throughout the country, a principal question concerned whether UC Hastings should remove the Hastings name.

The school entered into conversations with RVIT with no preconditions and, similarly, the RVIT Tribal Council went into the dialogue with eyes open, sensitive to the prospect of empty assurances and unfulfilled promises.

Early on, it became clear that the Hastings name was just one of many issues to resolve. Yet, repeatedly in our conversations, a principal grievance of RVIT representatives was their erasure from California and American history. Erasing the Hastings name would not remedy that continuing insult.

UC Hastings and RVIT came to realize that a proactive and respectful partnership between the law school and the descendants of those its founder had so grievously harmed was the best form of remembrance and redress. Specifically, we needed to come to terms with the horrors visited upon Indigenous peoples of California and, importantly, find ways a major law school could assist descendants still in need. In order to help effectuate this relationship, RVIT formed a committee of Yuki tribal members and tribal elders.

UC Hastings and RVIT are discussing ways that we can partner going forward, including by organizing pro bono legal support and assist tribal leadership with economic development, efforts to meet the social needs of the community and federal, state and county matters, including water and property rights.

In addition, the UC Hastings will dedicate a permanent and public memorial to the Yuki people on its campus. Other initiatives, such as an Indigenous Law Center and an annual lecture series, will build upon the school's mission to serve society as a center of higher learning.

In the months and years ahead, we expect this partnership — this friendship — to inspire many additional joint ventures.

We are committed to a process where no outcome, including changing the school's name, is entirely foreclosed. While we recognize the law school's name will continue to be an issue on which reasonable people will disagree, RVIT and UC Hastings are aligned in the view that substantive redress of past injustices must be the first priority of this long-term relationship.

Changing the name of the school would be of little benefit to the living descendants of Serranus Hastings' crimes. These atrocities should not be erased — instead, it should be a societal goal to never forgetting this sordid chapter of American history and the challenges that Native Americans continue to face.

At the present time we are committed to remembering and redressing past injustices and to forging a future path of mutual respect and friendship.

James Russ is the president of the Round Valley Indian Tribes and executive director at Round Valley Indian Health Center. David L. Faigman is the chancellor, dean and John F. Digardi Distinguished Professor of Law at the University of California Hastings College of the Law.

---- Index References ----

Company: UNIVERSITY OF CALIFORNIA HASTINGS COLLEGE OF THE LAW; Tribal Council, LLC; HASTINGS TECHNOLOGY METALS LTD

News Subject: (Education (1ED85); Higher Education (1HI55); Minority & Ethnic Groups (1MI43); Social Issues (1SO05))

Industry: (Political Science (1PO69); Science (1SC89); Science & Engineering (1SC33); Social Science (1SO92))

Region: (Americas (1AM92); Asia (1AS61); California (1CA98); Indian Subcontinent (1IN32); North America (1NO39); Southern Asia (1SO52); U.S. West Region (1WE46); USA (1US73))

Language: EN

Other Indexing: (Round Valley Indian Tribes; Nation of Seven Confederated Tribes; California Supreme Court; RVIT Tribal Council; Yuki; Indigenous Law Center; Round Valley Indian Health Center; UC Hastings Law; University of California Hastings College of the; Tribal Council; Hastings) (James Russ; David Faigman; Serranus Hastings'; Brendan Lindsay; David L. Faigman; John F. Digardi) (LB/nam#9#49#90; LC/us#9#50#90; LR/am#9#49#90; LR/nam#9#49#90; LS/us#9#50#90; LS/us.ca#9#90#90; LU/us.ca#9#90#90; LU/us.ca.local#9#50#90; LU/us.ca.rouley#9#90#90; LU/us.ca.sanfrn#9#90#49; LU/us.state#9#50#90)

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Word Count: 913

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NewsRoom

Faigman Declaration

Ex. 5

TWO MOTIONS OF THE BOARD OF DIRECTORS OF HASTINGS COLLEGE OF THE LAW

REGARDING THE NAME OF THE COLLEGE

Resolution Passed Unanimously November 2, 2021

Whereas the Hastings Board of Directors is the lawful governing body of Hastings College of the Law;

Whereas in 1878 Serranus Hastings contributed \$100,000 in gold coin to found the first law department of the University of California;

Whereas the California Education Code provides that the law school should henceforth be known as Hastings College of the Law, a department of the University of California;

Whereas Serranus Hastings promoted and funded genocide against members of the Yuki Tribe¹ and other Native Californians in Round Valley. It is a shameful legacy that demands not just contrition, but action;

Whereas beginning in 2017 the College, through the office of the Chancellor & Dean and the work of the Hastings Legacy Review Committee, identified the details of Serranus Hastings' crimes against Indigenous Peoples and sought ways to restore justice for those crimes;

Whereas in 2020 the Chancellor & Dean made recommendations to the Board of Directors regarding a path forward by which the College could work with the Round Valley Indian Tribes in general, and members of the Yuki Tribe in particular, to build trust and identify initiatives by which UC Hastings Law could partner with tribal members to build mutually beneficial initiatives;

Whereas the work of the Chancellor & Dean, together with the Restorative Justice Advisory Board, has had significant and worthwhile conversations with representatives of the Yuki people, which has resulted in several initiatives, including the creation of an Indigenous Law Center at UC Hastings, the identification of a commemorative space in which the Yuki have been invited to define the content, the identification of educational initiatives through which the law school could work with students in Round Valley in areas of the law, and others in development;

Whereas throughout the process of reconciliation between the College and members of the affected tribes, officials at the College understood that the name of the school was an abiding issue;

Whereas the College sought to define a comprehensive path forward with restorative justice as the ultimate objective, and recent events have placed the name of the College at the forefront;

Whereas the College continues to put substantive restorative justice efforts as the highest priority, and has concluded that confronting the issue of the Hastings name is vital to those efforts;

Whereas the Board does not have the authority to change the name of the College, which requires legislation;

Whereas, given the wrongful and harmful acts of Serranus Hastings that have been documented through the College's efforts, the Board believes that this great institution, with its proud 143-year history of excellence in the law, should not be associated with his name, therefore, be it

¹ The Yuki are also known as N'om, Powe' N'om, and Witukomno'm People of Eden Valley and Round Valley.

Resolved that the Chancellor & Dean will work with the California Legislature, the Governor's Office, and other offices to enact legislation changing the name of the school; and be it further

Resolved that the Chancellor & Dean shall continue to work in partnership with the Yuki people and the Round Valley Indian Tribes to pursue and accomplish restorative justice related to the acts of Serranus Hastings.

Faigman Declaration

Ex. 6

Resolution Passed Unanimously December 14, 2021

Whereas, on November 2, 2021, the Hastings College of the Law Board of Directors (the Board) directed the Chancellor & Dean to work with the California Legislature, the Governor's Office, and other offices to enact legislation changing the name of the Hastings College of the Law (the College); and

Whereas, the Board at that time also indicated that the Chancellor & Dean should engage in a deliberative process with the College community, members of the Round Valley Indian Tribes (RVIT), including Yuki Tribal members, also known as the N'om, Powe' N'om, and Witukomno'm People of Eden Valley and Round Valley, and others, regarding identification of a new name for the College; and

Whereas, since that date the Chancellor & Dean and other College leaders have discussed the renaming of the College with, and received name recommendations from, members of RVIT including Yuki Tribal members, faculty, staff, students and alumni of the College, representatives of the Governor's Office, members of the State Legislature, leadership of the University of California and others; and,

Whereas, name recommendations have included geographic names, a name commemorating the Yuki Tribe, and names of notable alumni and others; and

Whereas, under the California Education Code, "[t]he college is affiliated with the University of California, and is the law department thereof;"

Whereas, following from this deliberative process, the Chancellor & Dean has recommended that the College should be named geographically, specifically, San Francisco College of the Law, in conformance with the naming of other campuses of the University of California, of which the College by statute is and has been throughout its history an affiliate;

Whereas, since 2017 the College has been working collaboratively with the Round Valley Indian Tribes to promote efforts aimed at restorative justice, healing and reconciliation; and

Whereas, the Chancellor & Dean has further recommended that the College recognize and commemorate the Yuki Tribe, the RVIT and notable alumni through means other than the re-naming of the College; therefore, be it

Resolved that the Chancellor & Dean is directed to propose and seek consensus on "San Francisco College of the Law" as the new statutory name for the College in the College's further participation in the government-to-government discussions with the Tribal Council of the Round Valley Indian Tribes; and be it further

Resolved that the Chancellor & Dean shall continue to work in partnership with the Tribal Council of the Round Valley Indian Tribes, and those Yuki and other Tribal members designated by the Council, to pursue restorative justice related to the acts of Chief Justice Serranus Hastings.

Faigman Declaration

Ex. 7



UNIVERSITY OF CALIFORNIA
HASTINGS COLLEGE OF THE LAW

REPORT

To: The Board of Directors
cc: David L. Faigman, Chancellor & Dean
From: Chip Robertson & Albert Zecher
Date: June 3, 2022
Re: Re-Examination of Board's Decision to Pursue Renaming of the College

I. Introduction

On November 2, 2021, the Board of Directors of UC Hastings College of the Law unanimously voted to remove "Hastings" from the College's name. The Board acted in recognition of the complicity of Serranus C. Hastings in the harms perpetrated against Yuki Indians in the Round Valley and Eden Valley region prior to his founding of the College.

Several alumni expressed disagreement with the historical basis of that decision, which was primarily drawn from work by Professor Brendan Lindsay commissioned by the College.¹ In recognition of the importance of thoroughly considering this important question, the Board asked us to serve as a Committee to further review Professor Lindsay's analysis as well as the arguments of the alumni who disagreed with it. (We will refer to these individuals as the "correspondents.")

The Committee examined Mr. Lindsay's and the correspondents' arguments² and is now issuing this report confirming that the historical record supports the conclusion that Judge Hastings

¹ Brendan Lindsay, *Serranus Clinton Hastings in Eden and Round Valleys: White Paper* (December 14, 2021) (hereinafter "White Paper"), available at https://www.uchastings.edu/wp-content/uploads/2022/01/Hastings-Legacy-Review_FINAL-1.pdf; Brendan Lindsay, Serranus C. Hastings *Rebuttal Talking Points and Timeline* (May 5, 2022) (hereinafter "Addendum") (attached to this report).

² The Committee met with Professor Lindsay and asked questions regarding the basis for certain assertions contained in the White Paper. The Committee also asked Professor Lindsay to provide additional analysis that he believed was responsive to critiques of White Paper. Several correspondents requested to see Professor Lindsay's response and then submitted their own further responses. The Committee received memoranda from Kristian Whitten, Class of 1973, on May 10, 2022 and from Stephen K. Easton, Class of 1970, the Hon. Richard Flier, Class of 1970, and Donald Craig Mitchell, Class of 1971 on May 11, 2022. These documents are attached to this report. We also benefited from other input from alumni, including Judge Flier's comments at our March 10, 2022 Board meeting, Mr. Mitchell's January 10, 2022 memo to Chancellor & Dean David Faigman, and various columns written by Mr. Whitten in the *Daily Journal*. We do not attempt in this report to address every matter raised by the

engaged in conduct that promoted and failed to stop the killings of Indigenous persons in Round Valley.³ The conduct of Judge Hastings is reprehensible and is properly the justification for the Board of Directors' decision to not continue to honor his legacy.

Certain key facts are not in dispute, particularly that the population of Yuki Indians in Round Valley was virtually extinguished as a result of White settlement in the second half of the Nineteenth Century, going from 6000 prior to 1848 to 168 in 1880.⁴ Nor has any of our correspondents disputed that a major element of this destruction was the fact that many Yuki Indians were killed by White settlers and severely abused by them in other ways.

Rather, the dominant theme running through the correspondents' arguments is that they believe the evidence does not support the conclusion that Judge Hastings knew of the atrocities committed by White settlers against the Yuki Indians, other than one set of killings by an employee of his. They emphasize that Judge Hastings offered a statement under oath (his deposition) averring to this during an 1860 state legislative investigation of the conflict between Whites and the Yuki Indians.⁵ Because of their conclusion regarding Judge Hastings' knowledge of the acts against the Yuki Indians, they believe that there is no reason to remove his name from the school.

We agree with the correspondents that there is no incontrovertible proof that Judge Hastings knew more than he acknowledged. However, we also find that, even accepting Judge Hastings' statement on the limits of his knowledge, he knew enough about, and was involved enough in, serious wrongdoing as to bear meaningful responsibility for it. In other words, even when Judge Hastings is given the benefit of the doubt as to his claimed level of knowledge, we conclude that he played a significant role in the grievous wrongs perpetrated against the Yuki Indians during this period.

We discuss two key areas of Judge Hastings' responsibility below. First, Judge Hastings employed a man, H.L. Hall, to tend his livestock in Eden Valley, even after learning the man had engaged in a mass killing of Indians in retaliation for livestock losses; and the man went on to commit an even more egregious massacre while still employed by Judge Hastings. Second, Judge Hastings was instrumental in creating and then supporting – financially and politically – a

correspondents; rather we focus on the historical question of Judge Hastings' responsibility for wrongdoing. The Board's view in forming this Committee was that this question could have a decisive bearing on whether the Board should maintain or revise its position on renaming the College.

³ We note that the Board does not sit as a court of law considering whether to hand down a criminal conviction against Judge Hastings. While, as discussed below, we do conclude that the evidence supports the conclusion that Judge Hastings was complicit in criminal acts against the Yuki Indians, the practical question for the Board is whether Judge Hastings acted in a manner that was wrong, from a moral point of view, such that our school should not honor him by bearing his name. Therefore, we have considered whether the evidence supports this conclusion as more likely than not, rather than applying the higher standard from criminal law.

⁴ White Paper at 55.

⁵ *Id.* at 58-59.

citizen militia, the Eel River Rangers, to a degree that he bears responsibility for the well-documented atrocities committed by this group.

II. The Historic record is replete with actions undertaken by Judge Hastings that supported, contributed to, and resulted in the killings of indigenous persons in Round Valley.

A. Judge Hastings' employee engaged in a mass killing of indigenous people to protect livestock and ranch land owned by Judge Hastings; and despite having knowledge of this killing, Judge Hastings failed to take any action to have his employee prosecuted for it, and in fact continued to employ him and permit him to remain as tenant on his lands. During that subsequent employment, this man engaged in another mass killing on Judge Hastings' behalf for which Judge Hastings must bear responsibility.

Judge Hastings said in his deposition that he retained H.L. Hall as caretaker of his livestock in Eden Valley starting in August 1858.⁶ Judge Hastings also acknowledged learning in January 1859 that Hall had killed 14 Indigenous men in retaliation for the killing of horses.⁷ This had occurred the day prior to Judge Hastings' arrival on a visit to Eden Valley in January 1859. Judge Hastings, however, said Hall had concealed the fact of these killings.⁸ Hastings said that he learned of them from his son, who shared the information while they were returning home from Eden Valley.⁹ This was the only one of the "outrages," to use his word, against the Yuki Indians that Judge Hastings said he knew about prior to the legislative investigation.¹⁰

⁶ *Id.* at 58.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* Hall described in his deposition this attack and the indiscriminate killing it involved, although he cites a lesser number of deaths. After learning that several horses had been killed by Indians, Hall and two other men approached a rancheria they believed was inhabited by those responsible. "We found some 18 or 20 Indians who ran as soon as they saw us. I think 8 or 10 were killed and the balance escaped." *Id.* at 60. They then killed one more Indian man who refused to leave his hut and attempted to shoot them with a bow and arrow, Hall said. *Id.* They set fire to his hut and then shot him when he emerged. *Id.* Thus, by his own description, Hall and his group simply killed the Indians based on their presence at this rancheria.

¹⁰ *Id.* at 59. One correspondent states that this information merely made Judge Hastings "aware that Mr. Hall had killed people who were believed to have rustled his cattle," but not of Hall's "killing Native Americans indiscriminately." See Flier, May 11, 2022, at 1. We do not agree, because Judge Hastings had every reason to understand Hall's killings here as indiscriminate and otherwise culpable.

As quoted above, the only facts Judge Hastings recounted were that Hall had killed 14 Indians at a camp where there were the remains of horses. Judge Hastings did not indicate that he had any information that showed Hall had somehow determined that all (or any) of these 14 men were involved in a theft of horses before killing the men, nor even that Hall killed the men after (rather than before) finding the carcasses. Nor did Judge Hastings indicate that he

Despite having learned of Hall's killing of 14 Indigenous men, Judge Hastings stated in his deposition, he continued to employ Hall through April 1859, and thereafter permitted Hall to remain a tenant farmer on his lands.¹¹ There is no evidence that Judge Hastings contacted law enforcement to report these killings that occurred on or near his land at the hand of his ranch caretaker.

This is significant not only because it indicates acquiescence to Hall's past conduct, but because Hall went on to commit another, apparently more grievous outrage in February 1859, again in retaliation for loss of livestock Hall was trying to protect. As Hall recalled at deposition, he discovered the destruction of livestock on the property and thereafter five men "...volunteered to go out with me and punish the Indians."¹² They followed a trail and "found the Indians."¹³ There were about 30 in this camp, and Hall's group killed eight men, while the rest escaped.¹⁴ However, Hall said they "found no evidence of stock having been killed in this camp."¹⁵ After following the trail further they found a camp with the remains of livestock, inhabited by three to four women and three to four children. When asked if he had seen any of the women killed, Hall at first declined to answer, but then said, vaguely, "I did not see any killed nor did I kill any of them. I saw one of the squaws after she was dead, I think she died from a bullet. I think all the squaws were killed because they refused to go further. We took one boy into the valley and the infants were put out of their misery and a girl 10 years of age was killed for stubbornness."¹⁶

In sum, as of January 1859, Judge Hastings had every reason to know that Hall was likely to kill large numbers of Indians on his behalf as part of Hall's work protecting Judge Hastings'

made further inquiry to determine anything more about the reason for Hall's actions – the presence of the carcasses appears to have been fully sufficient justification in his eyes for the killing of 14 men at the camp. This seems to us the definition of indiscriminate and wrongful killing. As noted above, Hall's own description of the event confirms it was as indiscriminate as Judge Hastings' uncomplicated description suggests. *Supra* n.9.

Incidentally, even making the fairly absurd assumption that Hastings imagined Hall had engaged in some kind of juridical fact-finding before killing the men at the camp with the horse carcasses, Judge Hastings knew Hall had no authority to convict others of the crime of theft, let alone to inflict capital punishment on them. (This was before Hall even served in the Eel River Rangers, so he was not cloaked under that particular authority of law.)

In sum, Judge Hastings' indication that he understood this set of killings by Hall to be related to the theft of horses by no means negates the fact this report provided Judge Hastings with the information that he was employing a man who engaged in large-scale, extra-legal, and indiscriminate killings as a means of retaliating for livestock theft.

¹¹ White Paper at 58. In contrast, Hall stated that he was still caring for Judge Hastings' stock in February 1860. *Id.* at 59.

¹² *Id.* at 60.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

livestock, yet Judge Hastings continued to employ Hall in that capacity. More losses occurred in February, and, predictably, Judge Hastings' agent committed more mass violence. Judge Hastings therefore, in our view, bears significant responsibility for Hall's February massacre.

B. Serranus Hastings promoted, requested the creation of, and provided material support to, the Eel River Rangers Militia, which engaged in the killing of indigenous persons in order to protect land and livestock owned by Hastings.

The correspondents do not dispute that the Eel River Rangers engaged in atrocities against the Yuki Indians, so we will not recount those. (We note that these atrocities were documented by an investigative committee of the State Legislature that stated in 1860, "Within the last four months, more Indians have been killed by our people than during the century of Spanish and Mexican domination,"¹⁷ and called the actions in Mendocino county "a slaughter."¹⁸) Rather, as noted above, the correspondents question whether Judge Hastings should be considered responsible for those atrocities in any way because they believe the evidence does not support the conclusion that he knew of the militia's actions. We, in contrast, think his deep involvement with the militia means that he bears meaningful responsibility even if it is true that he lacked actual or detailed knowledge of the militia's actions.

To begin, Judge Hastings was instrumental in the formation of this militia. He led the creation of petitions to the Governor to authorize the militia starting in April 1859 and personally wrote to the Governor to further encourage him.¹⁹ When the Governor issued in June a commission to form the militia to a man who expressed reluctance due to a belief he would not get paid, Judge Hastings offered to fund the company in advance of payment from the State.²⁰ That man still refused, so Judge Hastings called another meeting at which an alternative leader, Walter S. Jarboe, was elected as captain of the militia.²¹ Jarboe began leading militia expeditions against Indians in August 1859, killing, by Jarboe's own account, 16 Yuki Indians in one attack – apparently illegally, because this preceded his receipt of a commission from the Governor in September.²² According to a U.S. Army officer posted in the area, Jarboe and his men had killed 64 Indians by late August.²³

Judge Hastings supported the ongoing operations of the militia in meaningful ways. The company carried a letter from Hastings promising to reimburse those who supplied the militia.²⁴

¹⁷ *Id.* at 41.

¹⁸ *Id.* at 42.

²¹ *Id.* at 24.

²¹ *Id.* at 24.

²¹ *Id.* at 24.

²² *Id.* at 24-26.

²³ Addendum at 14.

²⁴ White Paper at 25; Addendum at 13

Judge Hastings wrote the Governor offering to supply ammunition to the militia.²⁵ Hastings also provided political support, writing to the Governor in October 1859 endorsing Jarboe and asking for the size of the company to be increased.²⁶ In February 1860, Judge Hastings wrote to the Governor to support the creation of a second militia in Round Valley, thus implying a belief that this was an effective and appropriate way to deal with the concern that Yuki Indians were killing settlers' livestock.²⁷

We believe the above facts describe a level of involvement by Judge Hastings with the Eel River Rangers that makes him in meaningful degree responsible for their actions. Advocating for the creation of a citizens' militia, "armed with Rifles and Revolvers," as the petition stated,²⁸ lacking substantial training or professional military leadership, to take to the field in a setting of high conflict, where the adversaries were less armed and regarded as having lesser rights than White people, was an endeavor predictably creating a high risk of gross abuse. Furthermore, by supporting the militia through a written guarantee of reimbursement to its suppliers; endorsing it to the Governor and encouraging the Governor to create a new militia in a neighboring region; and, if he followed through on certain statements, supplying it with funds and ammunition, Judge Hastings made himself an active sponsor of the militia's activities, with responsibilities for those activities. Either Judge Hastings did not concern himself with what the militia was actually doing, even merely to confirm that it was not engaging in mass violence – which his ongoing support for the militia clearly obligated him to do – or he knew and did not object. In either case, he is implicated in the militia's wrongdoing.

The correspondents' arguments do not reveal any new evidence that could support the conclusion that Judge Hastings' actions did not promote, support or contribute to the killing of Indigenous people in Eden and Round Valley by the Eel River Rangers. They contest the validity of Professor Lindsay's conclusion that Judge Hastings must have known about the Eel River Rangers' atrocities. They point to Judge Hastings' sworn deposition in which he denied such knowledge²⁹ and the absence of any direct proof to the contrary. Professor Lindsay, in contrast, points to the notoriety of the Rangers' conduct, which was covered not only in the California but also in the Eastern press;³⁰ the existence of one report from Jarboe to Judge Hastings on the militia's activities, suggesting there might have been ongoing reports³¹; his relationships with multiple members of the Rangers, including Hall and other employees or

²⁵ *Id.* at 12.

²⁶ *Id.* at 15. Notably, this endorsement occurred after Jarboe's company had operated illegally for about a month prior to the Governor's commission and committed at least one mass killing reported in *The Trinity Journal*, *The Sacramento Daily Bee* and *The Nevada Democrat*. *Id.* at 13-14.

²⁷ White Paper at 37.

²⁸ White Paper at 93.

²⁹ *Id.* at 59.

³⁰ Addendum at 3.

³¹ White Paper at 27.

former employees³²; and other factors. More broadly, Hastings had staked property and reputation on the standing up of the militia as a mechanism to defend his substantial Eden Valley land and ranching investment, and it seems likely that so ambitious and successful a businessman as Judge Hastings would therefore follow closely the militia's activities. We think Professor Lindsay makes the better argument.

We will not, however, further parse the historical record and the analyses made by both sides on this question. The discussion in this section should make clear why Judge Hastings, having helped start the Eel River Rangers and then supported their operations, must bear a meaningful degree of moral responsibility for their actions, whatever his level of actual knowledge of those actions, such that it is not appropriate for our law school to bear his name.

III. Conclusion

As discussed above, we believe the evidence clearly supports the conclusion that Judge Hastings acted wrongfully toward the Yuki Indians in ways that caused them grievous harm. He employed a man, H.L. Hall, after Judge Hastings admittedly learned that he knew that man had engaged in unlawful, mass killing of Yuki Indians, and that man engaged in further atrocities while still in Judge Hastings' employ, taken in furtherance of the interests of Judge Hastings. And Judge Hastings promoted the creation of, and then provided material support to, a militia, which itself engaged in atrocities against the Yuki Indians.

To be clear, we have recounted here only the conclusions that can be derived most directly from the undisputed historical record. We do not mean to suggest that we have concluded that what we describe here is the limit of Judge Hastings' culpability, for there is much beyond this that suggests further complicity and wrongful acts. Rather, we wanted to show that even interpreting the record in a manner highly favorable to Judge Hastings, including by crediting his own statements as the correspondents have done, the evidence still indicates that the school should not be named after Judge Hastings and that the Board should feel full confidence in affirming its prior decision.

Addendum: The Procedural Validity of the Board's Prior Resolutions

While our charge from the Board was to address the factual basis for its understanding of Judge Hastings' actions, we want to address one further matter raised a correspondent, the claim that the Board's decision to rename the school is marred by procedural errors.³³ We disagree.

³² Addendum at 2.

³³ Flier, *supra* n.2.

First, this correspondent notes that the Board did not follow University of California rules regarding renaming. The College is governed by its Board of Directors, not the University of California Board of Regents, though we are an affiliate of the University with many important connections. The College is not subject to internal administrative procedures of the University, nor does the University purport to make such rules for the College.

Second, this correspondent claims the College “did not follow its own procedures” in calling an emergency meeting on November 2, 2021 and documenting the factual basis of that emergency.” This is incorrect. The meeting was a “special meeting,” as defined in California Government Code 11125.4, which was permitted to be called on less than 10 days’ public notice. The agenda for that meeting stated as follows:

Government Code 11125.4(c) requires that to have a special meeting the Board must find that the delay necessitated by providing 10 days’ prior notice as is normally done would cause a substantial hardship to the College or that immediate action is required to protect the public interest. In this case, it is proposed that a substantial hardship would be caused because legislation is already being prepared relating to the name of the College, and it is necessary for the Board to consider this subject so that the College can engage constructively in the legislative process.

This was approved unanimously by the Board, as required. It was the Board’s view that the Chancellor & Dean needed direction from the Board immediately to be able to represent the College in legislative discussions that had already begun. The Board then unanimously voted that the name Hastings should be removed from the school.

Furthermore, even if it were correct that the November 2 meeting was somehow invalid, the issue would be moot. The Board met again on December 14, 2021, after providing the standard 10 days’ notice, and ratified the November 2 action by unanimously passing another resolution identifying San Francisco College of the Law as its choice of a new name. Thus, even if the Board’s action on November 2 were somehow deemed to lack authority, the Board took equivalent action at its December 14 meeting.

The issue is moot for another reason. This report and the process it documents shows the Board’s genuine willingness to reconsider the action it (lawfully and properly) took on November 2 and December 14 based on input from community members. The public, including our alumni, have had far more than 10 days’ notice – over half a year, in fact, since November 2, 2021 – to consider the Board’s decision and, for those who disagreed, to mount their objections. The materials received from the correspondents are far more thorough than anything they could have produced in a 10-day notice period, and those materials are receiving thoughtful and full consideration by the Board through this review process.

Faigman Declaration

Ex. 8



Board of Directors Quarterly Meeting (OPEN Session) Minutes

University of California Hastings College of the Law
June 3, 2022

200 McAllister Street, 2nd Floor, Alumni Reception Center, San Francisco, CA 94102. Participants and members of the public were also able to join the open session via the web link or dial-in numbers listed in the public notice of this meeting linked here: <https://www.uchastings.edu/our-story/board-of-directors/board-meeting-notice-agendas-and-materials/>.

1. Roll Call

The Chair called the meeting to order at 9:04 a.m., and the Secretary called the roll.

Directors Present

Director Chip Robertson, Chair
Director Simona Agnolucci, Vice Chair
Director Shashi Deb
Director Michael Ehrlich
Director Andrew Giacomini
Director Andrew Houston
Director Claes Lewenhaupt
Director Mary Noel Pepys
Director Albert Zecher

Directors Absent

Director Courtney Power

Staff Participating

Chancellor & Dean David Faigman
Chief Operating Officer Rhiannon Bailard
General Counsel & Secretary John DiPaolo
Chief Development Officer Eric Dumbleton
Dean of Students Grace Hum
Executive Director, UC Hastings Alumni Association Meredith Jaggard
Assistant Dean of Career Development Office Amy Kimmel
Assistant Chancellor & Dean/Chief of Staff to the Chancellor & Dean Jenny Kwon
Director of Diversity, Equity & Inclusion Mario Lopez
Chief Communications Officer Elizabeth Moore
Provost & Academic Dean Morris Ratner
Chief Financial Officer David Seward
Deputy General Counsel Laura Wilson-Youngblood

Others Participating

Steve Brown, Yuki Committee President

Jack Grimm, ASUCH President

Dennis Prescott, BWF

Assemblymember James Ramos

James Russ, Round Valley Tribal Council President

2. Approval of meeting minutes:

2.1 Special Board Meeting 12.24.2021

2.2 Special Board Meeting 2.28.2022

2.3 Quarterly Board of Directors Meeting 3.10.2022

Motion:

The Chair called for a motion to approve all minutes presented.

Motion made and motion seconded. The motion carried.

3 Informational Consultation on UC Hastings Name

3.1 Overview of UC Hastings leadership engagement with RVIT and Yuki Committee

Dean Faigman welcomed everyone to the meeting and thanked them for coming. He thanked Assemblymembers Ramos, Ting and Haney and Senators Umberg, Weiner, and Hertzberg for their partnership. He also thanked the University of California Office of the President and President Drake. He thanked RVIT President Jim Russ and Yuki Chairman Steve Brown.

3.2 Report of RVIT President James Russ, Yuki Committee Representative Steve Brown, & Assembly member James Ramos

Assemblymember Ramos had not yet arrived, so Dean Faigman introduced Assemblymember Phil Ting to lead off the report. Assemblymember Ting said that he is honored to be here and congratulated Dean Faigman and the Board for their hard work. He said that the legislation regarding the College's name change has passed the Assembly, and he is optimistic that resolution will be reached by the end of August. He noted that August is the deadline for passing legislation, then the Governor has until the end of September to sign the legislation that was passed. He also said that the community needs history to be taught, restorative justice, and a new name. He thanked the College, the Board, and everyone involved for all of their hard work. Dean Faigman invited other California elected officials who wished to speak, and there were none. Assemblymember Ramos joined the meeting.

Dean Faigman invited President Russ to begin. Mr. Russ thanked everyone for having him, and thanked the Creator for bringing us all together today. He noted that there is a lot of work to do moving forward. He also gave historical background of the Round Valley Indian Tribes (RVIT), which is the federally recognized tribal entity in Round Valley. The Reservation was established by executive order, and comprises approximately 32,000 acres. The Reservation is located at the northern end of Round Valley and reaches up into the hills. The land is checkered rather than contiguous because of legislation that broke up the Reservation during a time when the U.S. government allowed people to come in and claim reservation land by claiming that the tribe was not using it. RVIT adopted its own constitution in 1936 and has its own separate government-to-government relationship with the United States. He also noted distinct eras in which the U.S. government was encouraging termination and dissolution of reservations. Today, those atrocities are real to the Tribe and its people. These issues affected their grandparents and remain very real to them today. Mr. Russ noted good but difficult discussions with Dean Faigman and former Yuki representative Mona Onedson. He referenced a speech with an historic apology from the Bureau of Indian affairs, which started by asserting that no one here actually did this, which is true in this case as well, but it did happen to their people. He said this is not just about a name change; they have a story to tell. He thanked everyone for their engagement in the process and for restorative justice efforts, too.

3.2.1 History and current status of the RVIT and Yuki People

Mr. Steve Brown, President of the Yuki Committee, provided information about the Yuki people, who are unique to North America. He said that they were first people to inhabit North America with their own language, and that archaeologists estimate that the population goes back more than 13,000 years. Now there are no fluent Yuki language speakers. He wants to bring the language back and revive the Yuki culture. This includes renaming Hastings “Powe N’om”, meaning “one people”, in honor of the Yuki. He noted that these are unifying words, and he thinks people will be curious about the origins of the name when they hear it, which will help revive the Yuki language and culture. The language is needed to understand the traditional songs, dances, ceremonies and prayers. Mr. Brown said that he wants to continue restorative justice initiatives that are already in the current draft of the bill and would like to discuss a possible museum, scholarships, pro bono work, and other initiatives.

Tribal members have legal issues with land, timber, and technology. He said that the Yuki population was once 20,000 but was reduced to 30 as a result of the atrocities committed. This happened to other tribes, too, but he said that only the Yuki were in the Round Valley at that time. No justice has ever been received for these crimes. San Francisco began as Mission San Francisco in the 1700s. The Spanish claimed all land as their own and tried to convert Native Americans to Catholicism. If they resisted, they were tortured and killed. He indicated that replacing one bad name with another is not a good idea.

3.2.2 Update on the work done so far on AB 1936

Dean Faigman gave an update. Over the past few months, he has worked to write AB 1936 with Assemblymember Ramos, with input from the RVIT and Yuki Committee. The Bill provides that the Board of Directors will make a recommendation on the final name to the legislature following full and robust consultation with the RVIT and Yuki Committee. This meeting kicks off that consultation process. Assemblymember Ramos drafted the Bill with Assemblymember Ting to bring consensus on what is happening with this issue. There have been a number of meetings between the assemblymembers and Dean Faigman and the RVIT and Yuki representatives. The Bill strikes out the name “Hastings”, includes “College of the Law” and says that future changes to the name are to be done in consultation with RVIT and a representative of the Yuki Committee. Assemblymember Ramos wants to get this historical trauma on record. He thanked Dean Faigman and the Board. The Board thanked Assemblymember Ramos.

3.2.3 How do we move forward -next steps

Dean Faigman thanked everyone for speaking. He went around the table and asked everyone to introduce themselves. He then invited assemblymember Ramos to speak.

3.3 Support of the California State Legislature – AB 1936

Assemblymember Ramos said that Dean Faigman and others at Hastings worked hard on restorative justice line by line in the bill. Assemblymember Ramos noted that it is important that Yuki and Native American tribes are at the table and included in the conversation. Atrocities are very real to Native Americans. He thanked President Russ and President Brown for expressing where they are today. The Chair thanked Assemblymember Ramos and opened up the floor to Board members with questions or comments. President Brown said that he

appreciates being invited, but reiterated that further conversation is necessary. The Chair said that there will be a series of meetings over the coming months with a subgroup of the Board and RVIT, Yuki Committee, and legislature. Director Giacomini thanked President Brown and President Russ for coming and sharing their stories. Director Zecher echoed comments and thanked everyone present for their partnership. Director Robertson echoed those comments on behalf of the Board, wants to be inclusive and have collaboration to move forward. Director Agnolucci thanked everyone for their time and noted that this is a learning opportunity for her and the Board, and she appreciates the opportunity to meet face to face and hopes we can continue to do that.

3.4 Questions, discussion, and conversation about future meetings with the Board of Directors

None.

4 Public Comment Period

The Chair invited public comment, noting that each commenter would have two minutes to speak in accordance with the time limit provided in the meeting agenda.

Reichi Lee - Hastings class of '03, spoke in favor of renaming the College with a name put forth by Yuki descendents.

Joe Rodriguez - Hastings class of '91, spoke in favor of removing the Hastings name from the College and replacing it with Powe N'om. He also encouraged the College to adopt an endowed chair in Indian law.

Deb Hut – Yuki representative, offered to send the Board a document on restorative justice and a handout on trauma and tribal sovereignty. She thanked the Board for the opportunity to meet today. The Board requested that she send the documents to the Hasting General Counsel so that he can distribute them, and looks forward to reading them.

April McGill – Yuki descendent, San Francisco resident, spoke in favor of changing the name of the College to a Yuki name for purposes of community healing. She thanked the Board for their time and for listening.

Michelle Downey - Round Valley Tribal Council member and Yuki descendant, she thanked everyone for the time to speak today. She said that education is important, and

she hopes that the College will let the Yuki have a say in the new name so that they and their children can start to heal.

Richard Flier - Hastings class of '71, spoke in opposition to a name change for the College.

Scott Breaves - direct descendant of Serranus Hastings, spoke in opposition to a name change for the College.

George Bisharat – Hastings Professor, encouraged the College to honor the request of the Yuki.

Louisa Petteroncelli – spoke in support of the Yuki people and their request to rename the law school.

Nicole Whipple - RVIT member, thanked the College for acknowledging the Yuki People, and spoke in favor of the name UC Powe N'om College of the Law for the College.

Mona Ondesan - Yuki member of RVIT, said that she hopes the Yuki are involved in restorative justice going forward and said that she does not feel that their input has been incorporated into restorative justice.

Linda Stacks - RVIT administrator and Cherokee member, spoke in support of the Yuki and thanked the Dean and the Board for undertaking this process as an institution.

Kris Whitten - Hastings class of '83, spoke in opposition to a name change for the College.

Catalina Malonzo - Hastings class of '81, spoke in support of the name change proposed by the Yuki. She asked whether the College has apologized to the Yuki and whether Native Americans will be allowed to study law at Hastings for free under the new UC program.

Morning Star Dali – RVIT member, said that Native Americans have the right to participate in decision making matters affecting their rights and encouraged the Board and the College to continue to listen to and work with the Yuki.

Paul Lauren – Hastings class of '88 and member of the Hastings Legacy Review Committee, said that he thinks the Board has been ill-served with respect to the name change issues and that the Hastings Legacy Review Committee was misinformed.

Lisa Galley - Tribal member, spoke in support of the Yuki and their proposal to change the name of the College to Powe N'om.

Stephen Easton – Spoke in opposition to a name change for the College and in favor of restorative justice efforts.

Shelly Rosenfeld – Hastings class of '10, spoke in support of the the law school changing its name to UCSF Law School or UCSF College of the Law.

The Chair invited Assemblymember Ramos to offer closing comments and thanked all of the speakers for their time. Assemblymember Ramos thanked the Board and all present for their willingness to sit down at the table and noted resounding consensus that restorative justice needs to happen. This is a chance to show the world and the rest of California that including Native People in the dialogue yields positive outcomes. AB 1936 is moving forward in the Senate with Senators Umberg and Weiner as co-authors with the input of RVIT and Yuki representatives, which will set the tone and model for others in California. He looks forward to continuing this dialogue. The Chair thanked him for his comments and leadership.

Director Agnolucci thanked everyone and acknowledged the diversity of opinion. She thanked everyone for their cordiality and respect despite the differences of opinion expressed and welcomes further communication.

Director Giacomini said he does not know whether there has been an apology from the College, but speaking personally as a California resident, he offered an apology to the Native People of California. He appreciates that his opportunities and privilege come from that history and knows that he needs to do something about it. Assemblymember Ramos said there needs to be a subcommittee to plan and move forward with the consultation process. The Chair indicated that the Board intends to identify representatives of the Board and then coordinate with Assemblymember Ramos shortly.

The Chair called for a short break in the meeting. The meeting reconvened at 10:45 a.m.

5 Report of the ASUCH President

Jack Grimm, the incoming ASUCH President, introduced himself to the Board. He said that the past two years of law school have been challenging for himself and for many students given COVID-19 pandemic circumstances and the significant political divisions and polarization across the country. He noted that the Hastings class of 2023 has enjoyed only one semester of uninterrupted in-person learning since starting at Hastings in fall of 2020. He said that Hastings students have been dealing with issues of free speech, inclusivity, and campus culture, which at times prove deeply divisive. His goal this summer is to meet with student leaders of all organizations on campus to determine their goals for the coming year and how ASUCH and the College can assist them in meeting those goals. He thanked the Board for the opportunity to speak with them. The Board congratulated Mr. Grimm on his new position and looks forward to working with him.

6 Report of the Board Chair:

6.1 Report of the Chair of the Educational Policy Committee

6.1.1 Informational Items:

6.1.1.1 Employment Update

Dean Ratner presented a summary of the written report. He said that employment of graduates 10 months out from graduation is 93 percent, which is a high since the College began reporting these numbers in 2014, and 80 percent are employed in bar-required or JD advantage positions. A new graduation requirement is engagement with the Career Development Office (CDO). Dean Ratner noted that in response to feedback from the Board, CDO has developed a contingency planning program for graduates that aims to help them plan for career goals and opportunities given market conditions.

6.1.1.2 Bar Success

Dean Ratner presented a report of the February 2022 bar outcomes, which align with expectations and are consistent with metrics in recent years. He said that the written report provides detail on the summer 2022 bar support available to graduates.

6.1.1.3 2023 Law School Rankings Analysis

Dean Ratner noted that there is an analysis included in the written materials that goes into detail with respect to metrics that impact US News rankings, which are tied strongly to allocation of

resources. He also presented historical rankings information and rankings with respect to different metrics since 2005. Dean Ratner noted that risk factors with respect to ranking include class size and decreases in funding allocations. The Board asked whether US News surveys students, and Dean Ratner responded that they do not. He said that the surveys include senior deans and certain professors at each law school. The law schools do not know which lawyers and judges will be surveyed. The Board asked how much information the survey responders receive about the College. Dean Ratner indicated that the College has a robust communication strategy to reach responders. The Board also asked about the College's placement success metric, which is a low outlier with respect to the College's overall ranking. Dean Ratner responded that the College's ranking would have improved by two points if it had employed 12 more graduates in the previous year. Dean Kimmel said that the College sends out a survey regarding employment just before graduation and continues to follow up and work with graduates through the March 15 deadline. She also noted that the statistics reflected in the US News rankings are delayed by two years, and not the most recent metrics. Only 10 graduates were unknown with respect to employment. The Board asked about allocation of resources in the Long-Range Campus Plan and whether that is included in resources allocation for purposes of the rankings. Dean Ratner indicated that it is, and that the College is already very highly ranked on that metric. The Board asked about diversity of students and faculty in US News rankings. Dean Ratner said that Hastings does very well on that metric, but it is not included as a metric within the rankings. Vice Chair Agnolucci encouraged new Board members interested in this topic to attend the Educational Policy Committee meetings.

6.1.1.4 New Centers

Dean Ratner rested on the written report.

6.1.1.5 Campus Climate Advisory Committee

Dean Ratner rested on the written report.

6.1.1.6 End-of-Year Reporting on March 2020 Strategic Plan Implementation

Dean Ratner rested on the written report.

6.1.2 Action Items:

6.1.2.1 New Faculty Hires; Faculty Transitions

Dean Ratner said that he is seeking approval for the fourth new faculty hire this year for appointment with tenure in accordance with Standing Order 101.1(a). The appointee will head the College's Center for Negotiation and Dispute Resolution.

Motion:

The Chair called for a motion to approve appointment with tenure for Hiro Aragaki.

Motion made and motion seconded. The motion carried.

6.2 Report of the Chair of the Advancement and Communications Committee¹

6.2.1 Report on Advancement

6.2.1.1 Comprehensive Campaign: Phase I Report

Mr. Dumbleton introduced Dennis Prescott from the College's fundraising consulting firm, BWF. Mr. Dumbleton and Mr. Prescott have been working together for nearly a year on Phase 1 of the College's capital campaign. Mr. Prescott presented findings from Phase 1 of the capital campaign, which support a College fundraising goal of at least \$100 million. He provided an overview of the Phase 1 process and timeline, noting that BWF undertook a comprehensive assessment of the Development office in fall 2021. That review was completed at year-end 2021 and the results provided to Dean Faigman and Mr. Dumbleton in February 2022. After that, BWF undertook an external interview phase, which brings us to the report today. He indicated that timing for a Phase 2 principal and leadership gift phase was slated for FY 2023, in which the College would ideally secure at least \$60 million over an approximately three-year quiet phase. BWF recommends that at least 60 percent of the fundraising goal be secured before the campaign is publicly launched and anticipates that the campaign will take two additional fiscal years after public launch.

¹ This item was addressed out of order, immediately following item 4, Report of the ASUCH President.

Mr. Prescott said that giving to Hastings has an upward trend and that the Development office has proven the ability to close gifts in the ranges that are necessary to raise \$100 million. BWF conducted a wealth screening which shows that more than 25 individuals have capacity for the eight figure gifts that are likely necessary for this campaign goal to be reached. The analytics team also showed that the \$100 million goal is accessible. There is a high degree of confidence in leadership, and there is a good deal of alignment between what people say that are willing to give and what the Development office anticipates they might give. He reviewed five areas that BWF reviews in its consultant work: case, leadership, prospects, readiness and environment, as well as findings for each with respect to Hastings. He also reviewed the volatile financial market's potential implications on giving, which tends to be short term and not to affect major gifts. He also reviewed identified prospects and trends in gift giving.

He also discussed development of a campaign theme, logo, and website once the campaign moves into its public phase. He also recommended recruitment of a volunteer campaign steering committee. He will be working with Mr. Dumbleton to establish a campaign plan.

The Board asked questions regarding the wealth screening of participants and the impact of an economic downturn. With respect to the latter, Mr. Prescott reiterated that it tends to be short-term and not to affect large gifts. With respect to the former, Mr. Prescott said that it included individuals based on information available in public records, and invited the Board to supplement that list with any individuals they know whom the College should be strategically approaching. The Board requested a copy of the full BWF report and a report in detail to the Advancement Committee. The Board asked for access to the alumni database so that they can search and help facilitate contact with Hastings. Mr. Dumbleton agreed and said that he and Ms. Jaggard have been working on establishing such an alumni database. He said that the Development office has an internal database that is regularly updated and that it uses to track donors. The Board requested access to the database. The Board also asked about the finding that a name change would not be an impediment to giving and asked further about the implications of different naming decisions facilitating gifts. Mr. Prescott said that no one

had indicated that if a particular name is chosen, they would be more likely to give, but that this has not been studied in depth. Mr. Dumbleton said that feedback regarding naming is varied and that people will have different opinions regardless of the ultimate outcome, and that most people who threaten never to give again based on the name have never given a gift to the College at all.

The Board thanked Mr. Prescott and Mr. Dumbleton for their work and for this well thought out process.

6.2.1.2 FY22 Fundraising Update

Mr. Dumbleton rested on the written report

6.2.1.3 Alumni Engagement Update

Ms. Jaggard rested on the written report.

6.2.1.4 Class of 1996 Student Video Competition

Mr. Dumbleton rested on the written report.

6.2.2 Report on Communications

Ms. Moore did not give an oral report, having ceded her time in the agenda to Mr. Dumbleton.

7 Report of Special Committee to Examine Historical Basis for Seeking a Name Change for the College

Director Zecher presented the report of the Subcommittee and an overview of the charge of the Subcommittee. He said that the Subcommittee was charged with review of the historical record based on objections the College received from certain alumni with respect to the decision to remove Hastings' name. These alumni said that the decision did not take into account Hastings' 1860 testimony in front of the legislature that he was not directly involved. The Committee provided this feedback to Brendan Lindsay for his review and input, and also reviewed the historical record itself. They sought to answer two questions: (1) When did S.C. Hastings first learn of the killings of the Yuki People and (2) What actions did he take that may have caused, contributed to, or failed to stop the killings. They reviewed three historical records, those of the January 1859 and February 1859 attacks by H.L. Hall on the Yuki, and Hastings constitution of the Eel River Rangers. H.L. Hall was S.C. Hastings' employee. The February 1859 attack included murder of infants and children. Prior to that point Hastings should have referred Hall to law enforcement, based on Hastings' admitted knowledge of Hall's prior killings, but he did not. Hastings offered to advance fund the Eel River Rangers and provide them bullets. They murdered Yuki Indians, and Hastings asked the Governor to expand the Eel River

Rangers. The Committee concluded that the historical record supports the conclusion that S.C. Hastings, more likely than not, was complicit in wrongful and harmful acts against the Yuki People such that he does not deserve to continue to be the namesake of the College. The resolution presented was modified slightly to continue to include the description of S.C. Hastings' acts as genocide based on the report of the Yuki representatives at this meeting.

Motion:

The Chair called for a motion to adopt the following resolution reaffirming the Board's decision to decouple the name Hastings from the College, as modified at this meeting.

"WHEREAS on November 2, 2021, the Board of Directors (the Board) unanimously voted to remove the name "Hastings" from the College's name because of wrongful and harmful acts committed by Serranus C. Hastings against the Yuki People, also known as the N'om, Powe' N'om, and Witukomno'm People of Eden Valley and Round Valley; and

WHEREAS on December 14, 2021, the Board unanimously affirmed that decision; and

WHEREAS, several alumni have contended that the historical basis for the Board's decision was inadequate; and

WHEREAS, those alumni expressed that view in public comment at the Board meeting of March 10, 2022; and

WHEREAS, the Board considered it imperative that the views of those persons be fully heard and considered; and

WHEREAS, the Board therefore determined on March 10, 2022 that a special committee should be constituted to consider the questions raised by these persons (the Committee); and

WHEREAS, the Chair appointed Director Albert Zecher and himself to serve on this committee; and

WHEREAS, the Committee received clarification regarding the questions raised by these alumni from Professor Brendan Lindsay, who previously drafted the White Paper that informed the Board's original decisions; and

WHEREAS, the Committee also received memoranda from several alumni responding to Professor Lindsay's analysis and further expressing their views; and

WHEREAS, the Committee considered all these materials; and

WHEREAS, the Committee determined that the historical record supported the Board's earlier conclusion that Judge Hastings promoted and funded wrongful and harmful acts against the Yuki Indians of Eden Valley and Round Valley. His conduct caused, contributed to, and failed to stop the killings and other atrocities against the Yuki People, such that he should not be honored as the namesake of the College; and

WHEREAS, the Committee so reported to the Board; now, therefore,

BE IT RESOLVED that the Board accepts and adopts as its own the report of the Committee, and be it further

RESOLVED that the Board re-affirms its decisions of November 2, 2021 and December 14, 2021 to remove Hastings from the College's name; and be it further

RESOLVED that the Board expresses its sincere appreciation for the thoughtful engagement of those individuals who provided materials for consideration in this process. "

Motion made and motion seconded. The motion carried.

8 Action Item: Finance Committee Consent Calendar

Motion:

The Chair called for a motion to approve the consent calendar.

Motion made and motion seconded. The motion carried.

8.1 Approval of the 2022 Audit Plan

8.2 Auxiliary Enterprises Proposed Budget 2022-23

8.3 State Contracts and Grants in Excess of \$100,000

8.3.1 Renewal of Legal Research Software - Lexis Nexis

8.3.2 MSL/LLM/CSL Digital Marketing - MF Digital Marketing

8.3.3 Sidewalk Services - Urban Alchemy - Tenderloin Community Benefit District

8.3.4 Audit Services - Moss Adams

8.3.5 CNDR Training Program - California Labor Commission

8.3.6 Accommodated Final Exams - Lease Rental & Equipment - CORT

8.3.7 Bloomberg Industry Group License Agreement – Bloomberg

8.3.8 Renewal of Software Support Services – Library/IT – Ellucian

8.3.9 Renewal of UCSF Security Guard Agreement- UCSF

8.4 Nonstate Contracts and Grants in Excess of \$100,000

- 8.4.1 CEQA Environmental Review - LRCP - Placeworks
- 8.4.2 Design Services - LRCP - Page Southerland Page, Inc
- 8.4.3 Student Housing Marketing Services – LRCP – Scion Group
- 8.4.4 Legal Education in Kosovo – Classroom – U.S. Department of State
- 8.4.5 Legal Education in Bosnia & Herzegovina – Classroom– U.S. Department of State
- 8.4.6 Legal Education in Serbia – Classroom – U.S. Department of State
- 8.4.7 Legal Education Institutions in Ghana – Classroom – U.S. Department of State
- 8.4.8 Statewide Dementia Awareness Project – Consortium – Sub-award from UCSF
- 8.4.9 Technical Assistance - SF Immigrant Legal Defense Collaborative– CGRS
- 8.4.10 Commercial Lease Amendment – Philz Coffee

8.5 Fund Transfer – Wells Fargo Bank to General Endowment Pool

8.6 UC Hastings Parking Garage – Rate Increase for 2022-23

8.7 Nonstate Budget Changes 2021-22 –Dean’s Discretionary Accounts

8.8 Fiscal Operations Policies and Procedure Manual - Updates

9 Report of the Chief Financial Officer

9.1 Long Range Campus Plan

Mr. Seward said that Ms. Bailard presented a full report at the last Finance Committee meeting. He asked if the Board had any questions. There were none, so he rested on the report.

10 Report Items: Finance Committee Reports:

Mr. Seward invited questions on the written reports. There were none.

- 10.1 Investment Report as of March 31, 2022
- 10.2 Cyber Audit Special Engagement with Moss Adams
- 10.3 Review of Unrelated Business Income Tax
- 10.4 State Budget Report for 2021-22 as of March 31, 2022
- 10.5 Auxiliary Enterprises Budget Report as of March 31, 2022

- 10.6 Long Range Campus Plan - Project Overview
- 10.7 Overview of California Environmental Quality Act (CEQA) Review of Unite Here/Local 2 Site at 210-247 Golden Gate Avenue
- 10.8 State Budget Update for 2022-23
- 10.9 Report on UC Hastings Art Installations – Ripples Program
- 10.10 Listing of Checks and Electronic Transfers over \$100,000

11 Report of the Chancellor and Dean

Dean Faigman commented on the polarization and divisiveness surrounding political issues evidenced by the controversy about the Federalist Society event this past transfer? spring, and the College's efforts to encourage community cohesion. He said that Assemblymember Ramos has already contacted him about organizing the next meeting regarding the name change. Dean Faigman presented on COVID-19 issues, noting that the College continues to monitor conditions closely and has adopted a summer policy that tracks current public health guidance. Dean Faigman said that this year's class size will be about 400 with anticipated melt to 390. The Board discussed class size and encouraged the College administration to devote resources to support the larger classes. Mr. Seward said that a smaller class size would yield difficulty with respect to tuition discounting, and the analysis completed shows that significant reductions in staff and faculty would be necessary to reduce class size. Mr. Seward gave credit to the Enrollment team and Development team in preserving the 30 percent discount rate. Dean Faigman indicated that the great resignation hit the College among mid-level staff, who left for issues mostly related to pay and quality of life.

Mr. Lopez reported DEI initiatives. He said there had been a campus-wide pronoun training. There have been 11 first-generation workshops since the First-Generation Program launched. He said that the program just had its Apple mock interview event and thanked Dean Kimmel for her partnership. He also thanked Senior Assistant Dean of Enrollment Management June Sakamoto for all of her efforts in enrollement. He said that there will be a campuswide DEI town hall. The Board congratulated Mr. Lopez on these initiatives. Dean Faigman mentioned diverse faculty hires this year in the context of student issues regarding the Federalist Society speakers and general discord. The College is reviewing the Campus Climate Advisory Committee report and will hold a town hall in the fall to help develop community cohesion. The Board asked about diverse faculty hires, and Dean Ratner responded that the individuals hired include Thalia Gonzalez, Jen Oliva, and Ming Chen. The Board encouraged the College to work on supporting and keeping those diverse faculty once they start at Hastings.

12 Report of the General Counsel & Secretary: Election of the Chair and Vice Chair of the Board

The Chair thanked everyone, and nominated Director Simona Agnolucci as the next Chair of the Board of UC Hastings. Her nomination was seconded. Prior to voting, Mr. DiPaolo invited other nominations. There was none.

The Secretary called for a vote on the election of Director Agnolucci as Chair of the UC Hastings Board of Directors for 2022-2023.

All Board members voted in favor, and the Secretary announced Director Agnolucci was elected Chair.

Director Zecher nominated Director Robertson to serve as the Vice Chair of the Board next year, after inquiring with respect to allowable officer positions in the By-laws. The nomination was seconded. The Board invited other nominations. There was none.

The Secretary called for a vote on the election Director Robertson as Vice Chair of the UC Hastings Board of Directors for 2022-2023.

All Board members voted in favor, and the Secretary announced Director Robertson was elected Vice Chair.

Chair Agnolucci said that Vice Chair Robertson has been a great role model and leader in these times. Vice Chair Robertson indicated that the highlight of his time as Chair has been welcoming new members. They both thanked everyone.

13 Director Comments and Board Announcements

None.

14 Adjournment to Closed Session

The meeting adjourned to closed session at 12:13 p.m.

15 Adjournment

Open session reconvened at 12:34 p.m. The Dean reported that in closed session the Board approved the Margaret Wood '73 endowed scholarship and that the Board approved the recommended salary increases for the Chief Financial Officer and General Counsel.

The Chair adjourned the open session at 12:34 p.m.

Respectfully submitted,

John K. DiPaolo, Secretary

Faigman Declaration

Ex. 9



Special Meeting of the Board of Directors

Minutes

July 27, 2022

University of California Hastings College of the Law
200 McAllister Street
Alumni Reception Center, 2nd Floor
San Francisco, CA 94102

Participants and members of the public were able to join the meeting via the web link or dial-in numbers listed in the public notice of this meeting linked here:

<https://www.uchastings.edu/our-story/board-of-directors/board-meeting-notices-agendas-and-materials/>

1. Roll Call

The Chair called the meeting to order at 9:30 a.m., and the Secretary called the roll.

Directors Present

Director Chip Robertson, Chair
Director Simona Agnolucci, Vice Chair
Director Shashi Deb
Director Michael Ehrlich
Director Andrew Giacomini
Director Andrew Houston
Director Claes Lewenhaupt
Director Mary Noel Pepys
Director Courtney Power
Director Albert Zecher

Directors Absent

None

Staff Participating

Chancellor & Dean David Faigman
General Counsel & Secretary John DiPaolo
Assistant Chancellor & Dean/Chief of Staff to the Chancellor & Dean Jenny Kwon
Chief Financial Officer David Seward
Deputy General Counsel Laura Wilson-Youngblood

Others Participating

Mr. Steve Brown, Chairman, Yuki Indian Committee, Round Valley Indian Tribes

Hon. Robert Hertzberg, State Senator

Hon. James Ramos, State Assemblymember

Mr. James Russ, President, Round Valley Indian Tribes Tribal Council

Hon. Tom Umberg, State Senator

Hon. Scott Wiener, State Senator

1.1. Opening Blessing

At the invitation of the Chair, Assemblymember Russ offered a Serrano song as a blessing.

2. Welcome

2.1. Introductory Comments

Chair Agnolucci welcomed guests and the public to the meeting. She recounted the process that had led to today's meeting. In 2018, the College commissioned Professor Brendan Lindsay to write a white paper on the topic of Serranus Hastings' actions that concluded that Judge Hastings had committed atrocities against the Yuki Indians in Round Valley and Eden Valley. In 2020, the Hastings Legacy Review Committee issued a report focused on critical restorative justice efforts the College should take related to the peoples of Round Valley. That committee did not recommend a name change. In September 2020, the Board of Directors adopted that report. However, as restorative justice efforts continued, it became clear that keeping the name would be offensive to many, so the Board voted to remove Hastings from the College's name in November 2021. In March 2022, the Chair of the Board appointed Director Albert Zecher chair of a committee to re-examine the historical basis for the decision to rename the school, and that committee's report affirmed that the Hastings name should be removed. On June 3, 2022, the Board held its first consultation with Round Valley Indian Tribes (RVIT) and the Yuki Committee, facilitated by Assemblymember Ramos. The Chair of the Board appointed a consultation committee comprising Chair Agnolucci and Vice Chair Robertson. The Consultation Committee began in June 2022 a series of meetings with Assemblymember Ramos and RVIT and Yuki representatives. Chair Agnolucci said she appreciated the leadership of Messrs. Ramos, Russ, and Brown. The Consultation Committee also met with Jonathan Cordero, President of the Association of the Raymutush Ohlone. The College continued to receive messages from the public on this matter up to a few

minutes before the meeting, and Chair Agnolucci indicated that she read them all.

2.2. Comments by Elected Officials

Assemblymember Ramos stated that there had been an ongoing process, starting in October 2021, that included discussions and input with tribal members at the table. He thanked his colleagues in the Assembly and Senate for their work in bringing together people to bring this history of the State of California to light and for working with the tribes to solve this issue. This is a model for others in the State to follow.

Senator Weiner thanked his colleagues, especially Assemblymember Ramos for taking the lead in this matter and Senator Umberg, with whom it was a pleasure and honor to work. He also thanked the College, especially Dean Faigman for all of his incredibly hard work, always with an attitude of coming to resolution. As a San Francisco native for 25 years and representative of San Francisco, Senator Weiner was happy that this resolution has been reached and that the Hastings name is going to be removed. He expressed that the idea that a San Francisco institution would have the name of someone who committed genocide is unthinkable, and that this is just one example of wrongs against California's Indigenous Peoples. What Serranus Hastings did was not an aberration; it was part of the policy of the State of California to exterminate and remove Native Americans in California. He said we need to own that as Californians as part of the history of our state, and we need to make amends. The restorative justice initiatives in our bill are as important as the name change. It is a model for the initiatives we should be taking to address the atrocities that occurred around colonization.

Senator Umberg thanked Assemblymember Ramos and Senator Wiener for all of their work in getting this done. He also thanked Dean Faigman for coming to the table with an open mind and heart and for all of his work. As an alumnus of Hastings, he believes it is very important to recognize the atrocities committed by Judge Hastings long ago, which still reverberate today. As a legislator, he believes it is important to make sure that the legacy of the school in San Francisco be continued. He also considers it important to recognize the State's complicity in these atrocities and the State's responsibility to set up restorative justice efforts.

Senator Hertzberg asked whether "UC" would be in the College's name. Mr. DiPaolo stated that the the affiliation of the College with University of California is in another section of the code, and that affiliation will remain unchanged. Dean Faigman stated that the College has had several meetings with UC President Michael Drake, who has consulted with the Regents. The College will market degrees as UC College of the Law, San Francisco, if the Board so votes. Senator Hertzberg said he considers it very important to continue that relationship. Hastings has fallen a lot in the rankings since he was a student, and the UC name critically important.

3. Review of Historical Basis for Board's Decision to Remove Chief Justice Serranus C. Hastings Name from the Law School

Director Zecher presented the evidentiary basis for the Board's decision to decouple the Hastings name from the College. Director Zecher personally reviewed the historical records along with Vice Chair Robertson this spring. Brendan Lindsey's 2018 report found that Hastings had committed atrocities from 1859-1860, approximately two decades before the law school was founded. He sponsored and supported indiscriminate killings against men, women and children. Several alumni asserted that there was not sufficient historical basis to conclude Judge Hastings was involved in the atrocities. The Board's Historical Review Committee looked at the historical record in the light most favorable to Hastings; and, even so, the Committee found he was complicit in mass killings against the Yuki.

In his 1860 deposition, Judge Hastings testified that the only outrage he knew about was the killing of a number of Yuki Indians by his ranch foreman H.L. Hall in retaliation for the killing of livestock; this had happened in 1858 and Judge Hastings said he found out about it in January 1859. Yet Judge Hastings continued to employ Mr. Hall thereafter. In February of 1859, his ranch foreman struck again and killed several Yuki Indians, including infants, again in the name of protecting Judge Hastings's livestock. Furthermore, in 1859 and 1860 Judge Hastings was so involved in promoting, establishing and supporting a militia group called the Eel River Rangers that he must be held responsible for its actions. The Rangers' specific purpose was to clear the Yuki people from the land. Judge Hastings is on record promising to pay the Rangers and supply them with bullets. Judge Hastings encouraged the Governor to expand the Rangers. Judge Hastings promoted and supported an armed militia tasked to use deadly force, so he cannot be absolved from the deadly slaughter just because he did not pull the trigger himself. His involvement may have been even deeper than is reflected in

these facts, but the point is to show that there is ample historical support to decouple the Hastings name from the College.

4. Overview of AB 1936 – A Bill to Rename the Law School and Support Restorative Justice Initiatives

Mr. Seward said the bill had received broad bipartisan support in the Legislature. It was co-authored by Assemblymembers Ramos and Ting. The bill modifies the existing legislative framework by removing the name Hastings and calls for a consultative process between the College, RVIT and the Yuki Committee, removes the Hastings descendant board chair, and calls for a recommendation of a new name by the Board after the consultative process. The bill outlines a series of restorative justice measures that the Assembly recommends the College take. The College agrees to provide pro bono legal support to residents of Round Valley and participate in the Native American Opportunity Plan to promote accessibility and affordability for those pursuing a legal education. The Budget Act of 2022 includes \$885,000 dollars to support renaming and other costs. The College will seek additional funding to enable it to fully undertake these initiatives; an estimated \$3.4 million is needed. The bill has gone through both houses of the Legislature with unanimous bipartisan support.

5. Comments on Consultative Process

5.1. Assembly Member James Ramos

Assemblymember Ramos thanked Chair Agnolucci and the College for their hard work. He thanked President Russ, Mona Oandasan, and Chairman Brown for their hard work as well. Assemblymember Ramos said this process started in October 2021 when the school indicated it was open to renaming itself. All of the foregoing people plus Dean Faigman met and worked on the bill for over 60 hours to get to the bill we have today. The consultation process in the bill contemplates consultation with the federally-recognized RVIT tribe and its designated Yuki Committee. Those meetings moved forward to where we are at today. The consultation process with RVIT began June 3 and ended July 13. Powe N'om was always the name being discussed as put forward by the Yuki Committee as a possible replacement name for the College. He also noted that a lot of work has gone into the bill regarding restorative justice. At the July 13 meeting the parties agreed to discuss Powe N'om as a potential name along with others, as well as what is already in the bill regarding restorative justice. Other measures include giving an indigenous name for the law library, recognition of

atrocities committed at convocation and commencement, a willingness to reexamine the name of the College if the name of San Francisco changes, and legal support to look into issues that we're discussing here today. He stated he was calling out reengagement on the name if the City's name has changed because it was no longer in the memo. He thanked everyone for their engagement, noting that when this process started there was an absence of native peoples at the table, and now they have been included. The present moment is the most important part of the process, which is choosing the name. This is a model for others in the state of California to come to terms with the impacts of the atrocities committed by the State against its first people. We will no longer see the history of California swept under the rug when it comes to treatment of its first people. We need to right the wrongs and listen to the voices of the people who are crying out for the true history of California's first people to be told.

5.2. President James Russ, Round Valley Indian Tribes

President Russ began by thanking the Creator for bringing us together to discuss this important issue. He thanked Assemblymember Ramos for his leadership. It is important to remind ourselves that this is not an easy discussion to have; there is a lot of denial and sweeping things under the rug. As Indian people, we need to see that the actual truth is being acknowledged. It is important to know that as an example, if you look at our own public school system, we do not hear the history of what happened to Indian people in our area. President Russ gave a lot of credit to Dean Faigman, the College, and the Board for bringing this to the forefront. If these leaders were not in support of it, we would not be having this conversation. There were many conversations with Mona Oandasan, Steve Brown, Assemblymember Ramos, and College representatives. These were not easy conversations, but we all stayed and got to this point. Restorative justice measures and renaming conversations are really important. The Native Peoples wanted to be involved, wanted a voice, wanted to be heard. All of our tribes have a story to be told throughout California and the nation. We want that mutual respect; we can listen to arguments and express our views too. Thanks for being open and for listening to our views. We wanted to be involved in the process and the process has been good. We went through AB 1936 line by line and had input into it. Other Council members and others of our people have given input, too.

5.3. Chairman Steve Brown, RVIT Yuki Committee

Chairman Brown said he read Dean Faigman's memo and its recommendations against naming the College Powe N'om. That memo was not a brief because it did not include counterpoints. He and others talked to Jonathan Cordero and Ben Medel, and they have their own agenda and are not credible. Dean Faigman left out the feedback from the Muwekma Oholone who support the Powe N'om name. Dean Faigman consulted with hand-picked tribal members with no credibility. This is a cold case homicide of 20,000 victims. Chairman Brown's whole family tree was murdered, and all he wants is for the College to put two of their words on the College. There must have been 1000 small defenseless babies included in the victims. Chairman Brown described what he imagined bullets did to those babies. Judge Hastings paid people to do this. Today we call those people psychopaths. Chairman Brown described images of dead babies at the College and told the Board to think of those images when it voted. He said, honor is important to our people, and we are all waiting to see if you will do the right thing. Fiat justitia, the school motto, means swift justice. If swift justice for is some, then change the motto. Now is your chance to show that there is justice for all. Make a motion and second it for the name Powe N'om. Don't let us down.

6. Overview of the College's Ongoing Commitments to Restorative Justice Initiatives

- 6.1. Physical Plant Commemoration and Naming
- 6.2. Indigenous Law Center
- 6.3. Educational and Cultural Initiatives
- 6.4. Other Program Initiatives

Dean Faigman said outreach to the tribes of RVIT began in 2017. There had been numerous meetings with RVIT and the Yuki people, including many who prefer to be referred to as the Wit'uconomom people. Since then, the College has dedicated space on its first floor to Native American history focused on the Yuki people. It has established the Indigenous Law Center two years ago. The College funded four scholarships this year for students to work on indigenous issues in the Round Valley area. The College is also working on a program to give students of RVIT the chance to participate in moot court and writing programs. Compassion, empathy, and common ground will be at the heart of our work together as we advance together into the future.

7. Presentation of Report of the Board Consultation Committee

Chair Agnolucci said the issues examined in the Committee's report are complex, and she hoped that all read it. It is the culmination of a long and robust process. She and Vice Chair Robertson worked hard to incorporate all input received, including that of Assemblymember Ramos, President Russ, Chairman Brown, alumni, students and others. The Committee recommends AB 1936 be amended to name the school College of the Law, San Francisco. It recommends additional restorative justice measures beyond what are in AB 1936: naming the law library an appropriate indigenous language name following additional consultation with RVIT and its designees; acknowledgement of atrocities at commencement and convocation; and collaboration with Round Valley to provide students opportunities to develop debate and writing skills through trial advocacy and moot court. The Committee continues to support decoupling the Hastings name from the school, which is itself an important restorative justice measure. The stain of his actions still exists. The College has received a lot of input from members of the public. Seven percent supported a Yuki-language name. Although the Yuki Committee supports the name Powe N'om, that name is not universally favored among the Yuki or RVIT, or other tribes. The RVIT, a federally-recognized tribe, has not endorsed this approach or taken a position on the name. The Ramaytush Oholone expressed in a letter to the College that naming the College in another tribe's language on their ancestral land would be a grave offense to them. Other Yuki members advocated for other approaches.

The College has been in San Francisco since 1878. San Francisco is one of the greatest cities in the world. We have heard some criticism of the name based on the San Francisco mission, but we are not naming the school after the mission, but for the city itself. San Francisco is the overwhelming choice of students, staff and alumni; a geographic name is also the uniform approach of other UCs. Restorative justice has been our goal from the beginning. The College has agreed to all of the restorative justice measures Mr. Seward mentioned, including the goal of education. The law library naming will put an Indigenous-language name on a central aspect of the College's education program. The Committee enthusiastically supports moot court and trial advocacy programs providing debate and writing support to Round Valley students and informing our students at graduation of the atrocities committed.

8. Public Comment Period

The Chair invited public comment. The Secretary stated that each commenter would be limited to one minute and that there was 30 minutes total for public comment.

Tocal Halsey American Bird, a San Francisco native and Yuki descendent, spoke in favor of an Indigenous-language name.

Rick Marcus, a member of the faculty, spoke in favor of a geographic name.

Edwina Lincoln, a Yuki descendant, spoke in favor of a name that respects the history of the Yuki people.

George Bisharat, a member of the faculty, spoke in favor of the name Powe N'om.

April McGill, a Yuki descendant, spoke in favor of an Indigenous-language name.

Catalina Lozano spoke in favor of the name Pow'e'nam.

Jonathan Cordero, Chair of the Ramaytush Oholone peoples, spoke in favor of the name change but against a Yuki-language name.

Norma Garcia spoke in favor of the name Pow'enam.

Maria Dominguez, a Hastings alumna, spoke in favor of the name Powe N'om.

Mona Oandasán criticized the Dean for listening to a particular Yuki family and Jonathan Cordero.

Zachary Price, chair of the Faculty Executive Committee, spoke on behalf of that Committee in favor of a geographic name.

Charan Brahma, a UC Hastings alumnus, spoke in favor of a geographic name.

Morris Ratner, Provost and Academic Dean and professor, spoke in his individual capacity in favor of a geographic name.

June Sakamoto, Senior Assistant Dean of Enrollment Management, spoke in favor of the San Francisco name.

Richard Flier, an alumnus, spoke in favor of retaining the Hastings name.

Kris Witten, an alumnus, spoke in favor of retaining the Hastings name.

Carol Hamilton, an alumna, spoke in favor of a geographic name.

Jeremy Chan, an alumnus, spoke in favor of the name Powe N'om.

Deb Hut, a Yuki descendant, said there should at least be a Yuki-language motto if not the school name.

Jerome Pandell, an alumnus, spoke in favor of a geographic name.

James Sewitan, a Yuki descendent, spoke in favor of the name Powe N'om.

Elizabeth Delaney, an alumna, spoke in favor of a geographic name.

Nickole Whipple, a member of RVIT, spoke against the name San Francisco.

Adam Slote, an alumnus, spoke in favor of the San Francisco name.

Morningstar Gala, California tribal and community liaison, said the name change was important and capture and removal of native peoples is an ongoing issue.

At this point, the Chair closed public comment.

9. Board Discussion on the Name Change and Restorative Justice Initiatives

The Chair invited Board members to discuss their views on the name change and restorative justice initiatives.

Director Pepys stated that she likes the meaning of the phrase Powe N'om very much. One people is a concept she deeply believes in, especially because of working internationally. She believes that Hastings has always embraced this. The Board has already voted to remove the Hastings name from our school. This is because the Board heard you, heard your pain. We as a Board of Directors are personally responsible for the future of the school. This includes restorative justice initiatives that impact the tribes and selecting a new name that reflects the depth and breadth of our school's community, a community embraced by the College regardless of race, gender, class, etc. This community is deeply embedded in San Francisco and it is this community who will

partner with RVIT in the future. Restorative justice efforts began four years ago. Based on trust and friendships that have been created over the past four years, she foresees a future that brings us all together as one people.

Director Houston said he is a graduate of Hastings class of 2007 and a first-generation college and law student from a single parent household. Going to Hastings changed the whole trajectory of his life. It gave him economic stability and knowledge of the law for his community. As a law student, he and his African American classmates would ask how to dress, wear their hair, and speak in interviews as they entered a White profession. Hastings has opened doors for many people of color, including Kamala Harris and London Breed. There are many differences between African American and Native Peoples, but many similarities, including being victims of murder, rape, etc. Director Houston has talked to other African American alumni about what they think about the name. While he doesn't speak for everyone, in a predominantly White institution and profession, White people make decisions that have real effects on people of color's lives. Changing the name to Powe N'om could have positive effects, but there are unfortunately a lot of people who would not support the institution anymore. That would make the struggle for students of color even harder, for students who do not have a dime to their name, whose parents are incarcerated, who are parents while in law school. The issue in speaking with African American alumni is that the Powe N'om name will not be accepted by people who have the power to impact the lives of people of color. He wishes we lived in a society where people would accept Powe N'om and would accept Barack Hussein Obama as an American citizen. He thinks that the San Francisco name gives people of color the best chance at success. This has kept him up many nights. He also does not want to suggest that if you don't support Powe N'om you don't support the Yuki people. He personally wants to help any Yuki person who comes to him and wants to go to the College.

Director Lewenhaupt said that as the sole descendant of Serranus Hastings on the Board, he is emotionally tied to this issue. He wants to express on behalf of himself and his siblings his deepest sympathies. He knows and has heard the pain in all of the meetings. He has sat with the Medels and their families and Dean Faigman. He sat and broke bread with them and listened to all of their pain. He wishes we could turn back the clock. He prays he wouldn't have done the same as Serranus Hastings did. He has spent his life in the military dedicated to ensuring that soldiers act in accordance with the rule of law. He has served on the Board for 16 years now, and his time on the Board is limited. He has tried to serve humbly, with only the interests of the institution, and he has seen amazing things happening at the College with Dean Faigman's leadership. The institution is

growing in its ability to support and stand for the little guy. He supports the geographic name because he thinks that will best help the institution thrive. He offers his support to restorative justice and anything he can do to keep this issue alive and at the forefront in California and across the nation.

Director Deb said the discussion of *fiat justitia* took her back to her time at Hastings. Those words are the call of duty as lawyers enter the legal profession and are an enormous responsibility. They are not taken lightly. It was emotional to hear your pain and words of sorrow. She feels deep, deep sorrow for what you and your people have gone through. Assemblymember Ramos said that no longer will history be swept under the table. Most people who started here as law students knew nothing or only superficial information about Judge Hastings, and she is ashamed about that. A lot of work has been done toward restorative justice and becoming one people. She is proud of removing the name Hastings and replacing it with the name San Francisco.

Director Power said she is a Hastings graduate from the class of 2001. She acknowledges the power and gravity of the feedback today and throughout process. She wants to echo what others have said in that all feedback was reviewed and carefully considered along the way. She embraces the Powe N'om name for aspects of the building and embraces the full restorative justice program. She thanked everyone. She has learned a lot along the way and supports every effort of restorative justice, including those that encourage knowledge of this history.

Director Giacomini said he is a UC Hastings graduate. He has appreciated the consultative process and learned a lot. He is ashamed of the atrocities committed against the Yuki people. He did not do it himself, but as a White man in California, he knows that he benefited directly from those atrocities. He apologized again to each person and their families. He appreciated what Director Houston said. It is really important that whatever we do reflects deep listening to the stories, feelings, and histories of the Yuki people. This process must continue; it does not end with a vote today. He is mindful that there are different points of view on this, and he does not have a way of reconciling all of the views. Some people think that using a Yuki name here would offend others, some people say that is not true; he does not want to create new offense, and that is influencing his decision. The restorative justice efforts are tangible evidence that the College is listening, and he wants that to continue. The decision to remove the Hastings name took a while, and it is reflective of listening to your concern and pain. The things that we have done are consistent with our motto. They may not be enough for some people, and he does not expect that whatever we do will be enough.

He does not know what could be enough to make amends for 20,000 murdered ancestors. Maybe becoming one people would be enough. We have been asked by the Yuki to take a roll call vote on name Powe N'om. For different reasons from Director Houston, he does not support renaming the College Powe N'om: he does not want to create another wrong to another tribe. Restorative justice, continued listening, and not allowing history to fade away are important. He does support finding another naming opportunity for Powe N'om and discussions of the best way to recognize it in the future.

Vice Chair Robertson expressed his thanks to everyone. This is the beginning of a long and productive relationship. While the Board may not agree on the name Chairman Brown has proffered, there will be a relationship going forward. He is looking forward to the future, which will take a lot of work and a lot of listening. That needs to be our focus, and to bring benefit to the community however we can. He has learned a lot and looks forward to continuing to learn.

Chair Agnolucci thanked everyone for the time and honesty people put into this process. She has learned a lot. She does not think the College will ever please everyone or choose restorative measures that are enough. What could ever be enough? She feels confident that the recommendation of a geographic name is in the best interest of the institution and that restorative justice efforts will bring healing to RVIT and the Yuki. This hasn't been an easy process, but it has been a robust one.

10. Call for a Motion to Determine and Approve New Name for the College and Affirm Commitment to Restorative Justice Initiatives Under AB 1936.

Chair Agnolucci introduced a resolution that she read to the Board, highlighting certain edits made as a result of comments at this meeting. She read the resolution as follows:

RESOLUTION OF THE BOARD OF DIRECTORS OF HASTINGS COLLEGE OF THE LAW

Whereas, the Hastings College of the Law Board of Directors (the Board) is the lawful governing body of Hastings College of the Law (the College);

Whereas, in 1878 Serranus Hastings contributed \$100,000 in gold coin to found the first law department of the University of California;

Whereas, the California Education Code provides that the law school should henceforth be known as Hastings College of the Law, a department of the University of California;

Whereas, in 2020, the College, through the office of the Chancellor & Dean and the work of the Hastings Legacy Review Committee, completed a three-year project to examine founder Serranus Hastings' involvement in mass killings of Native Americans in California's Eden and Round Valleys before the College's founding and sought ways to restore justice for those crimes;

Whereas, over the last four years, the College has established a growing relationship with the Round Valley Indian Tribes Tribal Council and Yuki People^[1] in pursuit of restorative justice.

Whereas, throughout the process of reconciliation between the College and members of the affected tribes, officials at the College understood that the name of the school was an abiding issue;

Whereas, legislation is needed to conform the California Education Code to whatever new name is adopted by the Board;

Whereas, on November 2, 2021, the Board directed the Chancellor & Dean to work with the California Legislature, the Governor's Office, and other offices to enact legislation changing the name of the College;

Whereas, since that date the Chancellor & Dean and other College leaders have worked with Senator Scott Wiener, Senator Tom Umberg, Senator Robert Hertzberg, Assemblymember Phil Ting, and most especially under the leadership of Assemblymember James Ramos, to support legislation to institute continuing restorative justice initiatives and to change the name of the College in statute;

Whereas, the Board fully supports Assembly Bill 1936 (AB 1936), co-authored principally by Assemblymember James Ramos and Assemblymember Phil Ting, including its provisions to remove Hastings from the College name and the twenty-one restorative justice initiatives outlined therein;

Whereas, AB 1936 requests that the Board submit a recommendation to the California State Legislature only after consultation with representatives of the Round Valley Indian Tribes and its designees of the Yuki Indian Committee;

Whereas, California Education Code Section 92201 states, "The college is affiliated with the University of California, and is the law department thereof"; Section 92203 states, "The faculty of the University of California shall grant, and the president shall sign and issue, diplomas to the students of the college," and nothing in this resolution or AB 1936 would change the College's deeply valued affiliation with the University of California;

Whereas the Board and its Consultation Committee (the Committee), the Chancellor & Dean, and other College leaders held five consultative meetings in June and July 2022 regarding the College name and restorative justice initiatives with the Round Valley Indian Tribes Tribal Council and its Yuki Committee;

Whereas, as a result of those consultative meetings, the Committee and College leaders discussed with the Round Valley Indian Tribes and its Yuki Committee the name of the College, as well as four additional restorative justice initiatives (outlined below);

Whereas, between November 2021 and January 2022, the College held multiple town halls and events to receive feedback from College students, staff, faculty, and alumni on the name change.

Whereas the College and the Board of Directors reviewed over 300 emails and letters received regarding viewpoints on the name change that, in summary showed that nearly 80% of responses support a name change, and among those who support a name change, 68% support a geographic designation, 14% support a name change with no specific name request, 12% support a person or other name, and 7% specifically support an Indigenous language name designation;

Whereas the College and Board of Directors have heard from multiple constituencies outside the College interested in this issue, including state and local officials, the media, and the general public.

Whereas, the Committee and College leaders heard strong arguments in favor of the Yuki Committee's stated preference that the school adopt a Yuki-language name, specifically "Powe' N'om," meaning "one people." Their advocacy for, and sincerely held desire to have, their people be honored in this manner is understandable and worthy of our respect;

Whereas, the Committee and the College leadership heard from additional Yuki descendants who support the College in designating its own name, who support a geographic designation, and/or do not support a name change, but rather see retaining the name as an act of forgiveness and pathway to healing and reconciliations;

Whereas, the Committee and College leaders met with the Association of the Ramaytush Ohlone to discuss the name of the College, as it sits on the ancestral land of their People. The College respects their strong opposition to a Yuki-language name for the College and their statement that naming an institution on Ramaytush Ohlone ancestral land in the language of a tribe from another region would be gravely offensive and in violation of traditional Indigenous protocols, and also acknowledge their support for use of the city of San Francisco in the College's new name;

Whereas, the College has been located in the great city of San Francisco since its founding in 1878, having graduated tens of thousands of attorneys, and some of its outstanding graduates have been uniquely identified with the city, including Wiley Manuel, Willie Brown, George Moscone, Jeff Adachi, and Kamala Harris.

Whereas, San Francisco is one of the great cities of the world and, as the College's home, it bestows gravitas on the institution, and the institution contributes to the City's greatness;

Whereas, San Francisco is, by far, the overwhelming naming choice of students, staff, faculty, administrators, and alumni of the school;

Whereas, a geographic designation follows the general approach of the University of California and the California State University System to name its campuses by their geographic locations; therefore, be it

Resolved that the Board recommend to the California Legislature, pursuant to AB 1936, that the name “Hastings College of the Law” in the Education Code be Replaced with “College of the Law, San Francisco;” and be it further

Resolved that the Board ratify the Twenty-one Restorative Justice Initiatives set forth in AB 1936; and be it further

Resolved that the College will support an amendment to AB 1936 to add the following four additional restorative justice initiatives:

1. Naming the law library an appropriate Indigenous-language name, to be agreed upon following consultation with RVIT, its designees, and the College;
2. Acknowledgment at Convocation of the atrocities committed under state law against the Yuki People in the nineteenth century;
3. Acknowledgment at Commencement of the atrocities committed under state law against the Yuki People in the nineteenth century;
4. Development of opportunities for collaboration between the College’s Moot Court and Trial Advocacy Programs with students in Round Valley to provide experience in debate and writing skills; and be it further

Resolved that the College maintain an ongoing and collaborative relationship with the Tribal Council of the Round Valley Indian Tribes and the Yuki people to pursue continued healing and restorative justice related to the acts of Chief Justice Serranus Hastings.

[1] The Yuki are also known as Powe’ N’om and Wit’uconomom People of Eden Valley and Round Valley.

Vice Chair Robertson seconded the motion.

The Chair invited debate. Hearing none, the Chair called for a roll call vote.

The Secretary called the roll, and the Directors voted as follows:

Director Simona Agnolucci, Chair: Aye

Director Chip Robertson, Vice Chair: Aye

Director Michael Ehrlich: Aye

Director Andrew Giacomini: Aye

Director Andrew Houston: Aye

Director Claes Lewenhaupt: Aye

Director Mary Noel Pepys: Aye

Director Courtney Power: Aye

Director Albert Zecher: Aye

The Secretary declared that the motion had been unanimously approved.

11. Adjournment

11.1. Closing Blessing

President Russ invited elders to lead a prayer to close the meeting.

The Chair adjourned the meeting at 11:58 a.m.

Respectfully submitted,

John K. DiPaolo, Secretary

Faigman Declaration

Ex. 10

Our name is changing to UC College of the Law, San Francisco in
2023

Learn more here
→

Chancellor & Dean David Faigman: Board of Directors Votes on New Name for the College

WEDNESDAY, JULY 27, 2022

[AT UC HASTINGS \(HTTPS://WWW.UCHASTINGS.EDU/CATEGORY/AT-UC-HASTINGS/\).](https://www.uchastings.edu/category/at-uc-hastings/)



Dear UC Hastings Community,

I write to offer an update on our path towards a new name for the College.

Today, the UC Hastings Board of Directors voted unanimously on a resolution to remove “Hastings” from our name in the California Education Code and replace it with **San Francisco**. This recommendation now heads to the California State Legislature to revise Assembly Bill 1936, which will amend provisions of the California Education Code to conform to the new name. If the recommendation is approved by both houses of the legislature, it will be sent to Governor Newsom for his signature and will become effective in January 2023. If all that happens, beginning in 2023, our great school will be known as **University of California College of the Law, San Francisco** or, for short, **UC College of the Law, San Francisco**, or shorter still, **UC Law SF**.

For those of you who are longstanding members of the UC Hastings community, you will know and appreciate a not-so-linear journey that began at the start of my deanship, one that I felt compelled to undertake to address in earnest the history of our namesake. It is a journey that I pursued with an open mind, considerable humility, and one that has brought with it powerful moments of learning and gratitude. The journey began in 2017 when I appointed the Hastings Legacy Review Committee to investigate further the history of the law school’s founder, Serranus Hastings, after learning of his involvement in mass killings of Yuki People in the Round Valley and Eden Valley region prior to his founding of the College. Since then, our College has established a foundational relationship with the Round Valley Indian Tribes (RVIT) and its Yuki Committee (the Yuki are also known as the Witukomno’m People), and worked on restorative justice measures, including opening an Indigenous Law Center (<https://www.uchastings.edu/academics/centers/indigenous-law-center/>), sponsoring students to offer pro bono legal assistance during the summers for organizations and tribal courts supporting California Native Americans (<https://www.uchastings.edu/2022/05/24/uc-hastings-students-will-give-free-legal-aid-to-indigenous-communities-this-summer/>), and co-curating a commemorative space in honor of the Yuki people on our campus. My Restorative Justice Advisory Board has continued to support me and College leaders in ongoing efforts (<https://www.uchastings.edu/our-story/hastings-legacy/>).

The Board’s decision on the name is the result of an extensive process that considered the viewpoints of all of the law school’s constituencies, including students, staff, faculty, alumni, and the University of California Office of the President. It also included numerous consultative meetings with members of RVIT, their Yuki Committee, and others.

Between November 2021 and June 2022, the College hosted eight meetings and town halls and events that included students, staff, faculty, and alumni, where attendees were invited to ask questions and share their views regarding the name of the College. The College also received hundreds of emails and letters from both internal and external stakeholders. Of those received, 78% supported removing Hastings from the College’s name and 22% were against a name change. Of those supporting a name

change, 67% supported a geographic name, 26% supported another name or failed to state a preference, and 7% supported a Yuki-language name. I want to thank everyone who shared their views, asked questions, and submitted recommendations.

Additionally, the Board of Directors heard directly from the public, and, most particularly, from RVIT and their Yuki Committee at its June 3rd meeting. The Board and its Consultation Committee met with representatives from RVIT and their Yuki Committee five times over the summer to consult on the name of the College and various restorative justice efforts. The RVIT Tribal Council supported removing the name Hastings but did not take a position on what the new name should be, and some members of the Yuki Committee advocated for a Yuki-language name. Other Yuki descendants had a range of views, including not changing the name or using a geographic designation. The committee also heard from the Ramaytush Ohlone, on whose ancestral land the College sits. We heard their strongly-held views that naming an institution on their ancestral land in the language of another tribe would create great offense.

I thank the Board of Directors for their engagement in considering all points of view on the name of the College, and I fully support their unanimous vote to change the school's name to UC College of the Law, San Francisco. As the Board's Consultative Committee's report states, it best embodies the College's core identity and is the overwhelming preference of students, staff, faculty, and alumni. The College is an integral part of the city in which it has resided for 144 years, and many of the College's most famous graduates are uniquely tied to the city – including former Mayors Willie Brown and George Moscone, the late Justice Wiley Manuel, and current Vice President Kamala Harris. The name also aligns with the approach of the University of California and California State University systems, which name campuses after their geographic locations.

Though we are one step closer to renaming our law school, our work here is not done. I will continue to update you further on the activities in Sacramento to fully effectuate a name change. The College will continue to work on restorative justice measures and seek to maintain our collaborative relationship with the affected tribes. The Board of Directors has also indicated its openness to naming a prominent campus space, such as the library, with an Indigenous-language name, which is a recommendation that I also support.

I am excited about the pending name change, which comes at an exciting time in our law school's history. The foundation of the College, the heart, the spirit, and the excellence will remain. Thank you for being part of this exciting and important chapter in our school's history.

Best regards,

David

David L. Faigman
Chancellor and Dean
John F. Digardi Distinguished Professor of Law

Media contact:

[Liz Moore \(mooreelizabeth@uchastings.edu\)](mailto:mooreelizabeth@uchastings.edu).

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Leaving Law School with a Job: UC Hastings Tax Law Program Produces Highly Employable Graduates

10/06/22

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Meet UC Hastings Board of Governors Member Michelangelo Macchiarella '18

10/03/22

(<https://www.uchastings.edu/2022/10/03/meet-uc-hastings-board-of-governors-member-michelangelo-macchiarella-18/>).

Continuing a Family Tradition in Law: Meet UC Hastings 1L Student Lauren Devens

09/29/22

(<https://www.uchastings.edu/2022/09/29/continuing-a-family-tradition-in-law-meet-uc-hastings-1l-student-lauren-devens/>).

Faigman Declaration

Ex. 11

Chancellor & Dean David Faigman: Statement on Governor Signing AB 1936

FRIDAY, SEPTEMBER 23, 2022

[AT UC HASTINGS \(HTTPS://WWW.UCHASTINGS.EDU/CATEGORY/AT-UC-HASTINGS/\)](https://www.uchastings.edu/category/at-uc-hastings/).

Dear UC Hastings Community,

I write to you today with further updates on our name change journey since [my last message on July 27th \(https://www.uchastings.edu/2022/07/27/chancellor-dean-david-faigman-board-of-directors-votes-on-new-name-for-the-college/\)](https://www.uchastings.edu/2022/07/27/chancellor-dean-david-faigman-board-of-directors-votes-on-new-name-for-the-college/). In August, Assembly Bill 1936 successfully passed in both the California Senate and Assembly with resounding support. In fact, there were zero “no” votes in either house. This bill allows us to legally change the name of the College and reaffirm our commitment to restorative justice initiatives with the California tribes most impacted by the acts of our founder and first dean, Serranus Hastings.

Today, Governor Newsom signed the bill, with an effective date of January 1, 2023.

I have launched a Name Change Committee of key campus leaders to work with students, staff, and faculty to assess and recommend decisions that will operationally transition us from UC Hastings College of the Law to UC College of the Law, San Francisco. This work will range from detailed changes to our website, email addresses, building signs, journal names, student organization names, and much more. Additionally, we will prepare a suite of new logo designs and a comprehensive marketing plan to get the word out to alumni, employers, judges, law schools, prospective students, US News voters, etc.

Although the effective date of the new name is January 1, I have not yet made a decision as to the exact date when we will “go live” on the new name. I want to initially confirm that we have ample time and resources for us to make all of the above changes and will communicate accordingly throughout this

semester. That said, the switch will likely happen sometime in 2023. Suffice it to say, a campus celebration will be in order to mark that moment. Until then, we remain UC Hastings.

Be on the lookout for more updates from me, as well as communications from my colleagues from the Name Change Committee about various name-change projects. You can also see the most updated information the name change, including FAQs, [on our website \(https://www.uchastings.edu/new-name\)](https://www.uchastings.edu/new-name).

This is an exciting time for the College, and I cannot wait for the new signs and banners to go up around our growing campus, and to see all of you wearing newly branded “UC Law SF” gear. I am thrilled to enter this new chapter with all of you!

Best regards,

David

David L. Faigman
Chancellor and Dean
John F. Digardi Distinguished Professor of Law
University of California Hastings College of the Law

Media contact:

[Liz Moore \(https://www.uchastings.edu/2022/07/27/chancellor-dean-david-faigman-board-of-directors-votes-on-new-name-for-the-college/mooreelizabeth@uchastings.edu\)](https://www.uchastings.edu/2022/07/27/chancellor-dean-david-faigman-board-of-directors-votes-on-new-name-for-the-college/mooreelizabeth@uchastings.edu)

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Leaving Law School with a Job: UC Hastings Tax Law Program Produces Highly Employable Graduates

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[\(https://www.uchastings.edu/2022/09/29/continuing-a-family-tradition-in-law-meet-uc-hastings-1l-student-lauren-devens/\)](https://www.uchastings.edu/2022/09/29/continuing-a-family-tradition-in-law-meet-uc-hastings-1l-student-lauren-devens/).

Faigman Declaration

Ex. 12

The time is coming to flip the switch on our new name!

Chancellor and Dean David Faigman
<chancellorfaigman@uchastings.edu>

Mon 11/14/2022 12:56 PM

A Message from Chancellor and Dean David Faigman

Dear UC Hastings Community,

It's been a busy fall regarding our upcoming name change to UC Law San Francisco. I want to thank all of my colleagues for the immense amount of preparatory work that has gone into the logistics of the name change. I am also grateful to our legal team that is counseling us through the lawsuit filed by a few of Serranus Hastings' descendants and a small group of alumni of the College opposed to the name change. I am confident that we will prevail in the litigation, and we are moving forward with plans for the renaming. It is important to note that the College remains committed to restorative justice measures addressing the impact of our founder and the harms committed against the Round Valley Indian Tribes and the Yuki People by the State of California.

Our name change goes into effect on New Year's Day, which is when we will begin using our new name: University of California College of the Law, San Francisco; UC Law San Francisco; and UC Law SF.

It is impossible to change every version of our old name by then, so I am announcing a six-month name transition period from January 1 to June 30, 2023. Starting January 1, we will use UC Law San Francisco/UC Law SF on all of our communications and begin phasing out the use of UC Hastings across our campus. This means converting all external, internal, physical, and virtual uses of our name to UC Law SF. During this transition period, building signs will be replaced, the school will have a new suite of logos and branding assets for fliers, letterhead, PPTs, etc. Student organizations, journals, and centers will announce updated names. And our website domain and email addresses will switch over seamlessly. You will receive tips on changing your email signatures, resumes, LinkedIn profiles, and so forth.

By the end of this year, the Communications Department (under the guidance of Liz Moore) will share with all school departments a new branding guide with access to the College's new seal, wordmarks, and branded templates, as well as tips on how to use them appropriately. We will launch a new online campus store where you will be able to buy and order all kinds of UC Law SF merchandise and swag for your needs. Information, including a link to the store, will be sent early in the new year.

This six-month transition period means that departments have until June 30 to finish using/giving away their branded UC Hastings merchandise or swag. After that, the College will exclusively be using merchandise with our new logos, so departments should not order any additional UC Hastings merchandise during the transition.

Look out for more details to come and check the [name change website](#) for the latest information and FAQs. If you have questions or would like any clarification, please reach out to Chief Communications Officer, Liz Moore (mooreelizabeth@uchastings.edu).

Best Regards,
David

David L. Faigman
Chancellor and Dean
John F. Digardi Distinguished Professor of Law
University of California Hastings College of the Law

Follow us on Social Media
#UCHastings



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