

*Mining Camp Democracy:  
Conflicting Interpretations  
of the American  
Democratic Tradition*

By  
Ronald H. Limbaugh

Liberty, equality, and fairness stand tall in the pantheon of American values. Their roots sink deep into the American past. All Americans identify with these core principles whether they practice them or not. They are the building blocks of democracy: the American Dream as exemplified in popular culture.

The disconnect between what Americans believe and what they actually do are prime subjects of study by scholars in the humanities and social sciences. The purpose of this paper is to review what historians of the American West have said about democracy in the gold camps, and then to use a statistical sampling of mining claim records to test whether the ideals of democracy were actually practiced.

This paper is only a preliminary study, with limits in both scope and content. Literary references to democracy in the gold camps are most extensive in historical studies of California. My focus shifts to the Pacific Northwest, using statistical data compiled from mining claim records, as well as census data and secondary sources. By studying the earliest available records of two gold camps, Bannack, Montana, and Boise Basin, Idaho, I have tried to determine whether democratic ideals and practices found in gold rush California apply elsewhere in the mining West.

**The Literature of Mining's Democracy**

The American Dream has had a rough time in recent years, but faith that individual progress is possible if laws are few, fair, and equitable has persisted in one form or another since Puritan times. Though largely secularized today, the Dream had religious connotations for much of its history. One of its many iterations was Manifest Destiny, the nineteenth-century belief that American continental conquest was both divinely in-

spired and inevitable. Artist John Gast visualized the Dream in an 1872 painting of Anglo-American pioneers moving West to exploit unused lands and minerals, marching over anything and anyone who got in the way.

Gold rush studies reflect both the pros and cons of American pioneer values. Traditional interpretations claim that democratic values flourished in the gold rush era. One of the earliest to study social organization in the California gold rush was Charles H. Shinn, a California journalist and teacher. In 1885 he prepared a history of mining customs and codes while a student at Johns Hopkins University.

Shinn drew special attention to the formative period from 1848 to 1851, when government was moribund and land was free for the taking from native Americans and Californios whose claims were not recognized by the conquerors. The wide distribution and easy recovery of placer gold gave all (Anglo-Americans at least) who came an “even start,” he argued. “Equality of ownership was the only logical conclusion.” Primitive conditions required gold seekers to work together in joint ventures where all shared equally in both the labor and the proceeds. Despite crude conditions, early camps were orderly and peaceful, with a low crime rate. Success at first depended on luck, and those who had dust shared it generously with those who did not. Liberty, equality, and fairness—the essential components of liberal democracy—Shinn found alive and well in the placer camps of early California.<sup>1</sup>

In demographic and financial terms, Shinn asserted, the early gold seekers came from similar backgrounds and shared common values. The majority were Americans from middle-class farm families, neither rich nor poor, but literate and steeped in the egalitarian values of Jacksonian democracy. After 1851, as the California fields declined, miners spread outward, extending the lessons learned in the California camps to new diggings in the American West and beyond.

Written in an era of surging nationalism,

Shinn’s exploration of nascent frontier democracy fit comfortably into the contemporary norms of popular American culture. His views were reinforced by the historical studies of a younger but better-known graduate of Johns Hopkins, Frederick Jackson Turner. The bedrock of the Turner Thesis rests on the idea that frontier expansion promoted democratic values, but Turner’s research stopped at the Mississippi River. He never seriously studied the Mexican War or the gold rush, which exposed the raw edges of American attitudes toward Mexicans, Indians, and other “foreigners.”

One of Turner’s contemporaries, Josiah Royce, a Harvard philosopher raised in California, was more critical. Instead of enhancing the nobler instincts of American character, Royce said that the frontier experience in general, and placer mining in particular, brought out the worst.<sup>2</sup> But Royce was the exception to the rule. More characteristic of the national mood in the late nineteenth century was the purple prose of Hubert Howe Bancroft, who proclaimed that “gold . . . at one breath . . . cleared a wilderness and transplanted thither the politics and institutions of the most advanced civilizations of the world.”<sup>3</sup>

Through a widely scattered and desultory series of books and articles, gold rush studies in the twentieth century offered a mirror image of the changing attitudes in contemporary popular culture. Early works reflected the progressive and pragmatic moods of the pre- and post-World War II years. A 1932 essay by Jim Dan Hill compared mining camp rule-making with procedures and outcomes in early colonial town meetings. Both established “quasi-municipal” governments and were “distinct contributions to American democracy.”<sup>4</sup> John Walton Caughey’s 1948 gold rush centennial volume praised California miners’ camp meetings as “perhaps even more democratic” than either the New England town meeting or the “old Teutonic folk moot.” They were all-inclusive, non-discriminatory, and gave claim and voting rights to “anyone who worked as a

miner.”<sup>5</sup>

A major reassessment of gold rush society began during the tumultuous upheavals of the 1960s. Beginning with the civil rights and free speech movements, critics of contemporary culture developed a darker view of democratic traditions that had a direct impact on mining camp studies. The characteristics of American democracy, along with almost every other aspect of society, have since been revisited by historians skeptical of traditional scholarship and informed by hermeneutics, behavioral studies, quantitative research, and other disciplines and analytical methods.

One of the earliest mining historians to reflect the impact of these new trends was Rodman Paul, the acclaimed dean of mining history. He acknowledged that mining claim codes were written “to give everyone an equal chance,” but he warned that local rules could be manipulated to favor particular interests.<sup>6</sup> Duane Smith devoted an entire chapter of his book on Rocky Mountain mining camps to miners of color and other minorities who were not “welcome,” as he put it. For poor whites, he said, “democracy flourished,” at least at first, but even the white majority soon stratified along class lines as the rich and powerful took charge.<sup>7</sup>

By the 1970s, the postmodern era was in full swing. Social critics have continued to expose flaws in the building blocks of democracy. They say American society is not fair and never was. Special interests prevail over common interests. Egalitarian ideals are not enough to protect the poor, the weak, the innocent, the vulnerable members of society from exploitation by the rich and powerful. Instead of equal opportunity for all, we have associations of class and culture that control the paths to success. Individual progress depends not on how hard you work but how well you manipulate the levers of power and privilege.

What do postmodern revisionists think of the image of the mining West as a model of egalitarian democracy? Here are some examples:

Focusing on the link between Jacksonian de-

mocracy and popular sovereignty, and by inference the romantic Euro-American belief in individual moral authority, David Johnson argued that the downside of egalitarianism in the California camps was an extra-legal power grab by the white male majority over any individual or institution that tried to interfere.<sup>8</sup>

Patricia Nelson Limerick, in her award-winning book *Legacy of Conquest*, and in a follow-up essay, dismissed mining camp egalitarianism as a passing “phase” on the road to social and political control by the capitalist elite. The frenzy of California gold fever disrupted the “social order” but ended when the placer gold ran out and the “hierarchy got back in charge.”<sup>9</sup>

Donald J. Pisani challenged the social and legal underpinnings of gold rush mythology in a 1998 article on Justice Stephen J. Field, who framed much of the corporate case law in California before he was appointed to the U.S. Supreme Court. Instead of “fair dealing” by ensuring “absolute equality of right and privilege,” as Field characterized early mining law, Pisani drew a contrasting picture of legislative favoritism, corporate domination, and ethnic discrimination by the white majority.<sup>10</sup>

New scholarship on minority rights and gender studies in recent years has intensified the critical reassessment of gold rush history. In an article on Henry George, Richard White said George saw the gold rush “as a moment of white, male egalitarianism” that quickly faded in face of capitalist greed and land monopoly. More significant to White was ethnic conflict. By taking away the “actual property of Californios and Indians, people who hardly figure in George’s analysis,” White concluded, miners “carved out privileged access to gold.”<sup>11</sup>

Susan Lee Johnson’s provocative study, *Roaring Camp: The Social World of the California Gold Rush*, deconstructs the social history of the southern mines in the California gold rush and finds little trace of nobility. Instead of building an egalitarian social order with open opportunity for

all, Anglo-American males controlled the power structure, caved to their savage instincts, and suppressed minorities by fear and force.<sup>12</sup> White male privilege was also the theme of Barbara Berglund's essay in 2003, which debunked the foundational myths of the 49ers. They were not, she insisted, "hardy pioneer miners" who promoted "individual freedom" by establishing an "egalitarian democracy." She dismissed the entire structure of mining camp life as built on the false premise of "white male supremacy."<sup>13</sup>

### Testing Mining Camp Democracy

Although the works I have cited pertain most-

ly to the California gold rush, are those findings also applicable to the rest of the mining West? For several years I have been trying to test how well democratic concepts worked in practice beyond California by quantifying thousands of mining claim records from two different mining camps, Bannack, Montana, and Boise Basin, Idaho. Both were gold camps starting at about the same time in 1862; both flourished in 1863 and declined rapidly after 1864. The claim records and deed books for both camps during those years are still largely intact. Using photocopies of those records, I built a database of some 2,300 records from Bannack and 4,500 records from Boise Basin, then used an array of statistical formulas in Excel to compare



*Quartzburg, Boise Basin, 1899. (Courtesy of the Idaho Historical Society.)*





*Gold panning in Boise Basin. (Courtesy of the Idaho Historical Society.)*

those records with literary records, including mining codes for thirty-two different districts.

Before considering the data, several preliminary observations about using mining records are necessary. First, most miners held claims by preemption, which amounted to trespassing or “squatting” on public lands not yet surveyed or opened for settlement. Preempting a mining claim was different from preempting land for farming, but both types of squatters, in Donald Pisani’s words, “sought to profit from land they occupied without clear title.”<sup>14</sup> “Squatter laws” for farmers had existed since the 1840s, but fiscal conservatives in Congress had withheld federal mineral lands from entry in the vain hope of lowering the tax burden by selling valuable mining grounds to

the highest bidders.<sup>15</sup> All thought of sales ended after the Mexican War, and the rush to California brought a flood of gold seekers to lands in legal limbo. With Mexican mining laws void and American laws inapplicable until Congress acted, miners made their own laws.<sup>16</sup> Preemption was codified as a possessory right in all western mining camp regulations after 1848. Clear titles had to wait until the federal government in 1866 gave miners what it had given farmers twenty-five years earlier: the right to enter and preempt a claim on public lands, and the chance to earn a fee-simple title by paying a minimum fee.<sup>17</sup>

Second, miners were also speculators, but they speculated in minerals, not land. A claim was held if it seemed promising and abandoned

*Miners were also speculators. (Scanned from Boise Basin Lode Book #1, 1863.)*

*Millionaire Quartz Lode*  
 I claim one claim in the discovery claim, recorded April 7<sup>th</sup> 1863 Recorded by C. Baker since sold to W. C. Intest. The present commission being out of this Territory, and having put the proportionate amount of work upon said claims & Lode, as required by law.  
 Oct 1<sup>st</sup> 1863  
 Recorded Oct 4<sup>th</sup> 1863  
 C. D. Wagon  
 W. Underwood, Auditor.

or sold if not. Lewis Atherton's seminal essay explained how the mining game worked. Most who came after the initial rush staked claims on unproven ground. They were "locators," not "prospectors." They did not want to live the life of a miner. They had little money to develop a claim, did the minimum amount of work to avoid losing it, and claimed it only as long as it was useful to offer for sale to a developer.<sup>18</sup> In the California rush, placer miners were too transitory to hold claims for development. As Andrea McDowell explained in a lengthy essay, claims were preempted and held only so long as they could be explored by the claimholder and cleaned out if any values were found. Preempting a claim in this context was more like a notice of intent to search for minerals at a specific site, not a sign of permanent occupancy.<sup>19</sup>

By the 1860s, however, the mining game had changed in California, and the effects were felt throughout the mining West. A decade of urban-industrial growth followed the end of the California gold rush in 1852. Urban and valley land values rose, as thousands on marginal claims abandoned the goldfields and migrated to cities and farms. Farmers, merchants, and capitalists competed with resident miners, Native Americans, and Californios for choice lands for agriculture, town lots, and small business. In the goldfields, corporations consolidated the best mining ground, and wage earners replaced many artisanal

entrepreneurs. Preemption alone could no longer protect unpatented mining claims from adverse possession.<sup>20</sup>

The mountain West was less affected than the coastal states and territories by this westward migration, but the influx of corporate capital nevertheless posed a threat to prospectors on federal lands and to preemptors still dependent on local mining codes to protect their claims. Roy M. Robbins' classic study of public domain lands in the Pacific Northwest illustrates how the Homestead Act of 1862 and other federal laws intended for agricultural settlement were used to privatize "millions of acres of mineral and timber lands." In 1860, the Washington territorial legislature took steps to reinforce the authority of local mining codes when it passed legislation—later incorporated into the 1866 federal mining law—recognizing the prevailing "customs, usages, or regulations . . . in force at the bar or diggings," so long as they were compatible with U.S. law.<sup>21</sup>

Active miners in Montana also felt threatened by the political influence and economic leverage of eastern capitalists and speculators. At the first meeting of the territorial legislature, in Bannack in the fall of 1864, lawmakers acted to protect the preemptions of resident lode miners by defining claims as property "subject to the same rules of construction, as the transfer and conveyance of real estate."<sup>22</sup> The wording nearly matched a resolution approved at a Bannack miners' meet-

ing earlier that year, requiring “that all claims in quartz lodes open and proven to be quartz lodes shall hold as real estate from this date.”<sup>23</sup>

More ominous was special legislation approved by Congress in 1866 to authorize the New York and Montana Iron, Mining and Manufacturing Company to preempt twenty sections—12,800 acres—of Montana land for iron and coal mining, and for timber to support mining operations. After two years the company could pay \$1.25 per acre and obtain federal patents to this immense tract. Andrew Johnson, in one of his more notable decisions as president, considered this a corporate boondoggle by New York speculators and vetoed the legislation.<sup>24</sup>

Congressional efforts to sell mineral lands to the highest bidder posed a still greater threat to the small claim owner. Late in 1865, Senator John Sherman of Ohio introduced a bill to open all public mineral lands for sale at a two-week public auction, with unsold lots offered in forty-acre plots at the minimum price of fifty dollars per acre.<sup>25</sup> To protest this pending legislation, in 1866 the Montana legislature sent an ungrammatical joint memorial to Congress, using the same argument for

preemption as farm squatters had earlier. “That the present owners by right of discovery, preemption or by purchase, are people of the poorer classes, without proper available means,” they “would be entirely powerless, and at the mercy of such capitalist or speculator and in imminent danger of seeing the fruits of his toil and labor irredeemably snatched from his grasp, to swell the already overflowing coffers of the millionaire.”<sup>26</sup>

That sentiment was widespread in the mining states and territories, and it formed the basis of Nevada senator William M. Stewart’s persuasive appeal to Congress on behalf of the first federal mining law in 1866. Poor miners, he said, “desire a fee-simple title,” which “they would prize above all else.” This would protect them from “capitalists and speculators” who otherwise would outbid the little man for good mining ground.<sup>27</sup>

Researchers looking for racial or ethnic characteristics must supplement mining claim records with outside sources. Prior to the 1870 Census—the earliest available for Montana and Idaho—most of the information relating to minorities in the two study areas is anecdotal, derived from sources such as diaries, reminiscences, family his-

Granite Creek mining district laws. (From the Boise News.)

<h1>Boise News.</h1>		
<b>VOL. 1. BANNOCK CITY, I. T., NOV. 21, 1863. NO. 9</b>		
<p><b>C. C. HIGBY.</b> R. BLEDSOR. <b>HIGBY &amp; BLEDSOR.</b> WHOLESALE and Retail Dealers in Groceries, Provisions, Liquors, Clothing, Boots, Shoes, Mining Implements, Stationery &amp;c. Placerville, corner of Staudeler and Granite Street. 117</p>	<p><b>CREIGHTON &amp; BUTTON.</b> DEALERS in Staple Dry Goods, Clothing, Groceries, Boots and Shoes, Liquors, Tobacco and Miners' outfits. Washington St., Centerville, Sept. 25, 1853—117</p>	<p><b>GRANITE CREEK MINING LAWS.</b> At a meeting of the miners of Granite Creek and its tributaries, held at the blacksmith shop on November 8th, 1863, the following resolutions and laws were adopted: Resolved, 1. That for the better convenience of the miners of Granite creek and its tributaries, it is thought to be expedient to organize a new mining District, to include all the territory drained by Granite creek, above the mouth of French gulch, and including said gulch. Resolved, 2d. That there shall be a Recorder chosen for this District, who shall hold his office at the will of the miners, whose duty it shall be to record the location of claims and town lots, all sales and transfers, either absolute or as security, record all verdicts of miners' meetings, or decisions, arbitrations, etc., and call miners' meetings when required. Resolved, 3d. That said District shall be called Granite District. The following laws were read, and, on motion, passed. Article 1. Any citizen shall be entitled to hold by location, one creek claim, one hill top or flat claim one wet gulch claim, one dry gulch claim, and one quartz claim.</p>
<p><b>M. KELLY.</b> <i>Attorney and Counselor at Law.</i> PARTICULAR Attention paid to collections. Office Wells, Fargo &amp; Co.'s Express, Placerville. Reference to any of the Agents of W. F. &amp; Co., on this Const. Oct. 8, 1863. 317</p>	<p><b>H. W. O. MARGARY.</b> LAW OFFICE</p>	<p><b>I. O. O. F.</b>—The Grand Lodge of the United States commenced its annual session at Baltimore, Monday, September 21st. Representatives from twenty-four Grand Lodges and sixteen Grand Encampments were accredited as entitled to seats. The contributions to the Wilkey Monument Fund had reached the sum of \$5,637 26, of which California sent \$1,980—about twice the amount contributed by Pennsylvania or Ohio. The thirteenth article of the by laws has been so amended as to read: “Provided, however, that any subordinate Lodge or Encampment working under the immediate jurisdiction of the Grand Lodge of the United States, in any State, District or Territory, may, at its own request, be made subordinate to any contiguous State Grand Lodge or Encampment.” The passage of this will permit the Encampments of Oregon, Nevada, Washington and Idaho Territories, and Lodges and Encampments of the Sandwich Islands, to be attached to the jurisdiction of the Grand Lodge of California. The next Annual Communication will be held, commencing on the third Monday of September, 1864, at the city of Boston, Massachusetts.</p> <p><b>GROWTH OF SAN FRANCISCO.</b>—By a late Directory, now in course of publication in San Francisco, it appears that the population of that city is</p>



tories, and newspapers. However, such sources can be used in conjunction with census records to provide a better picture of the number, if not the status, of the foreign-born and minority cohorts in the general mining population.

The chart below shows birth data for a sub-set of miners in the 1870 Census who had held claims in Montana and Idaho during the 1862-64 study period. U.S.-born miners are on the left; foreign born on the right. Of the 471 miners found in the census from Beaverhead County and the 592 from Boise Basin, most had Euro-American backgrounds, and all were identified as “white” except for five listed as “black”: four in the Basin and one in Bannack.

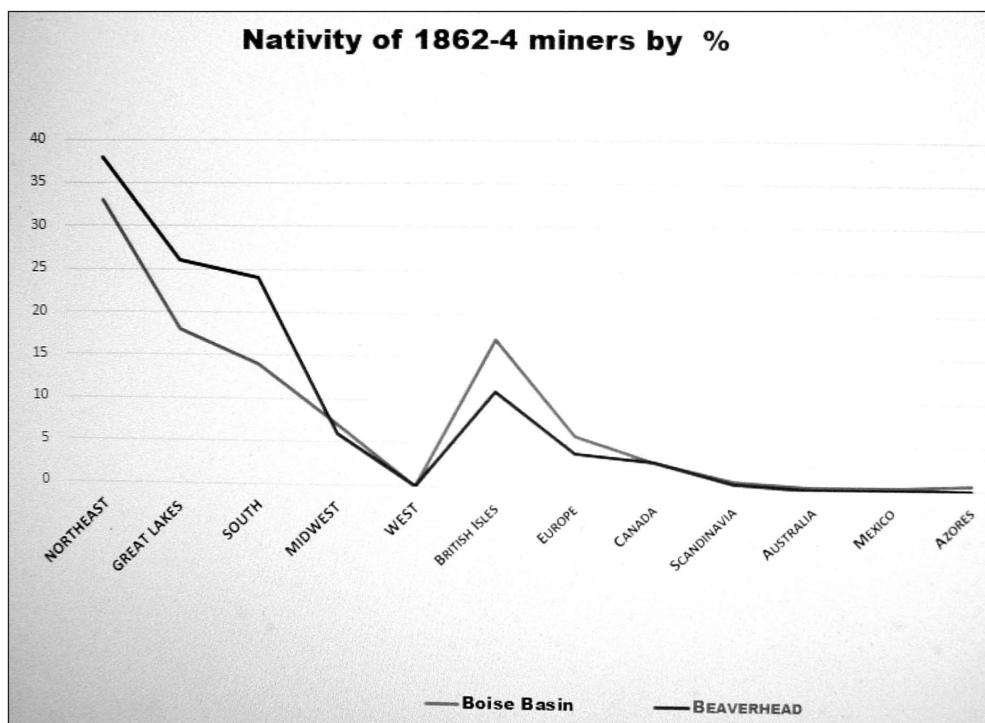
More diversity existed in the northern gold-fields than this small census sample suggests, but the low number of “outsiders” reflects the nativist economic interests and prevailing prejudices of American mining camp culture. While the rush was on in both Bannack and Boise Basin, minorities and foreigners were actively opposed by the white majority. Most early codes restricted claim

holding to American citizens; some ruled out anyone not a local resident.

One miner at a Beaverhead district meeting even proposed to deny the right of preemption to “females or boys under 14 years of age,” but his motives are unclear and contradictory.<sup>28</sup> Attempts to limit mining to adult males probably reflect more economic than cultural biases. Men resented women who defied traditional role models, but nineteenth-century gender stereotypes broke down under frontier conditions. Most miners welcomed women and children as agents of stability and progress, but not as competitors in the scramble for wealth.<sup>29</sup>

Claim records from the study areas show that thirty-one women held claims in Bannack and thirty-four in Boise Basin, for about one percent of the total claims staked by all miners in each region. How and why these claims were acquired remains problematical. Some claimants were the housewives of active miners; others were hard-working miners in their own right.

In Boise Basin, Idaho, the most active woman



*Nativity of miners derived from the author's database.*





*Sidney Edgerton, 1860s. (Via Google images.)*

in the early mining business was a French-Canadian widow, Victoria Portier, who held fifteen lode claims along Bear Creek discovered by her partner, George Ebel, a French immigrant. Portier evidently returned to Nova Scotia after the partnership broke up in the spring of 1864, while Ebel continued prospecting for nearly two more decades in central Idaho and Wyoming before retiring to a boarding house in Baker, Oregon, with a broken leg.

In Bannack, Montana, the most prominent female claim owner was the governor's niece, twenty-four-year-old Lucy Darling, whose diary shows her more interested in school teaching and following the "code of true womanhood" than in mining.<sup>30</sup> The forty-four claims preempted in her name were all recorded by Leonard Gridley, the district recorder, on the same lodes held by her uncle, Sidney Edgerton, the governor.

One final observation before looking at the data: mining codes are not reliable guides to ac-

tual practice. They were a set of guidelines, not a code of laws. Whether they were faithfully implemented and followed depended more upon camp culture and demography rather than fidelity to egalitarian principles.<sup>31</sup> After studying twenty-five camps in California, Colorado, and Montana, James I. Stewart concluded that mining codes were more likely to be followed in "small mining camps and those with culturally homogenous populations."<sup>32</sup> Another study by Karen Clay of fifty-two California codes drafted between 1850 and 1852 determined that codes were ineffective or "simply atrophied" if they lacked provisions for "mutual enforcement" by the miners themselves.<sup>33</sup>

### District Recorders

Miners may have been code enforcers of last resort, but the district recorder handled daily administration of district rules and regulations. Like local court officials, he served at the pleasure of the miners and earned a fee for services rendered, usually one or two dollars per recorded claim, and double that for taking minutes of meetings. But fees were less important to the recorder's potential profit than was inside access to information. He kept the books and knew the prospectors and where they staked new claims.

Quantifying the claim data from Idaho and Montana unmask the recorder's power and proclivities. In one Boise Basin district he was actually required by code "to go on the ground to be recorded, and see said ground properly marked and measured and corner stakes set." Following that unusual rule would have imposed an impossible burden in trying to keep up with all the claims filed in an active mining camp, which makes it clear that the recorder had rather wide latitude. With nobody around to monitor the monitor, he could decide what code requirements to enforce and what to ignore. The recorder's power was challenged only if disputes arose that called his actions into question.<sup>34</sup>



*Hydraulic mining crew in the Boise Basin in the 1860s. (Courtesy of the Idaho Historical Society.)*

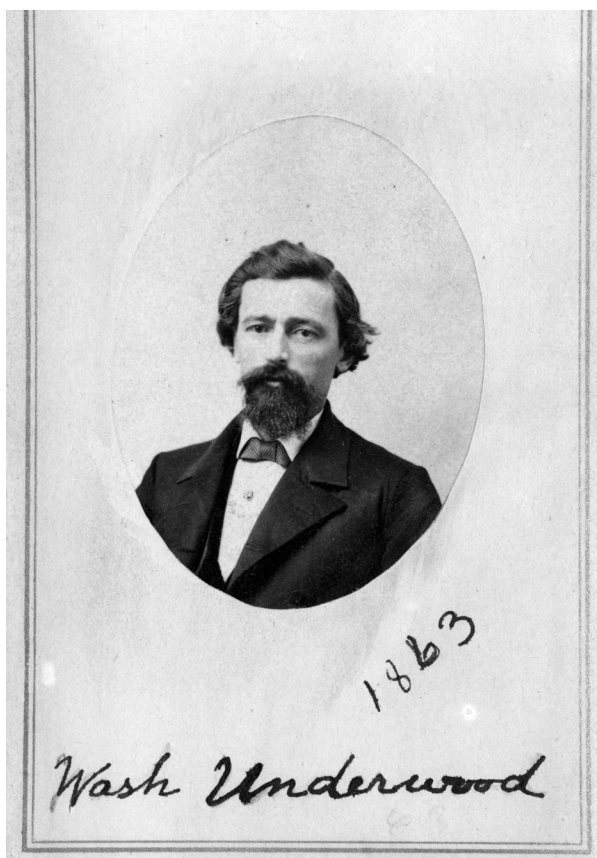
The career of Leonard A. Gridley in Montana illustrates how recorders took advantage of their office to reward themselves. He was a bachelor farmer and speculator from Ohio who traveled west in 1863 with Sidney Edgerton, Idaho's chief justice and later the first governor of the newly established Montana Territory. In the same group was Wilbur Fisk Sanders, Edgerton's nephew, Lucia A. Darling, Edgerton's niece, the wives of Edgerton and Sanders, plus a couple of friends and several children.<sup>35</sup>

With the governor's help, Gridley rose quickly in both mining and local politics. As lode mining expanded northeast of Bannack, Gridley became the recorder of a new silver district and proceeded to build an inventory of mining properties for himself and his friends. A year later he was elevated to Beaverhead County recorder. Edgerton accumulated at least 101 claims while in Montana, a third of which were filed in his name by Gridley while Edgerton was in New York and Washington promoting Montana mines and lobbying for a new territory. Local codes commonly restricted

miners to one lode claim each per district, but Gridley held claims on 113 different lodes within the same district in his own name, and on 89 of those lodes Edgerton also held a claim, usually adjacent to Gridley's.<sup>36</sup>

Both men left Montana in 1865 eager to unload their Bannack properties on gullible eastern investors. Gridley realized fifteen thousand dollars for his claims in New York; Edgerton sold his for twenty-five thousand dollars, enough to buy a big house in Ohio. They were lucky, for Bannack stock sales by the late 1860s were a drag on the eastern market. Too many false starts and poor returns scared investors and depressed mining development in much of southwest Montana. Local mining company officials, desperate for outside capital, warned and then pleaded with claim owners to hold their shares or sell them locally only after proving their value.<sup>37</sup>

Wilbur Sanders was the only one of the Edgerton party who stayed in Montana. Starting out as an uncompromising Republican Unionist in a body politic overwhelmingly Democratic, his



Washington Underwood, 1863.  
(Courtesy of the Idaho Historical Society.)

political ambitions were frustrated until a decade or two of demographic changes improved his chances for a U.S. Senate seat. In the meantime, he toned down his rhetoric and worked within a pragmatic, “no-party” political combination of lawyers, merchants, and mining executives to promote territorial development—while looking out for his own economic interests at the same time.<sup>38</sup>

In his reminiscences Sanders frankly admitted how the lure of wealth had softened his ideological outlook during his first months in Montana, when rumors surfaced that prospectors had staked claims but had not yet recorded locations to some new silver leads northeast of Bannack. Sanders arranged a quid pro quo with Samuel McLean, a leading local Democrat and mining investor, by which Sanders would

“secure . . . [McLean] a claim upon the silver lodes to be recorded” if an opportunity arose, “and reciprocally [McLean] . . . promised me, if an opportunity occurred for him to secure a claim for me, that he would do it.”<sup>39</sup>

In the Boise Basin, the largest claim owner was a bachelor, Washington R. Underwood. He filed for more than ninety preemptions while he was recorder and auditor for several mining districts, but none of his claims amounted to much. In the late 1870s he moved to Tombstone, Arizona, working for wages as miner, then house painter. His career ended as an indigent in the Cochise County hospital.

The privileged status of recorders in both Montana and Idaho shows up clearly in both the number of claims they held and the value of claims they bought and sold. In Montana, of the 7,891 preemption claims recorded from 1862 to 1864, Beaverhead miners averaged 3.5 claims apiece, while Beaverhead recorders in the same period averaged 21 claims apiece. Idaho data showed similar results. In Boise Basin, of the 6,371 preemption claims found in existing county record books from 1862 to 1865, the average number of claims per miner was 1.5. In contrast, recorders over the same period averaged 23 claims per person.

Similar findings appear in the records of purchases and sales of mining claims. In Montana, the average value of mining transactions made by

#### claims held by recorders

##### **Bannack Montana 1862-1864**

- total preemption claims recorded: 7891
- ave. number preemption claims by BV miners: 3.5
- ave. number preemption claims by BV recorders: 21

##### **Boise Basin 1862-1864**

- total preemption claims recorded: 6374
- ave. number preemption claims by BB miners: 1.5
- ave. number preemption claims by BB recorders: 23

*Claims held by recorders derived  
from the author's database.*



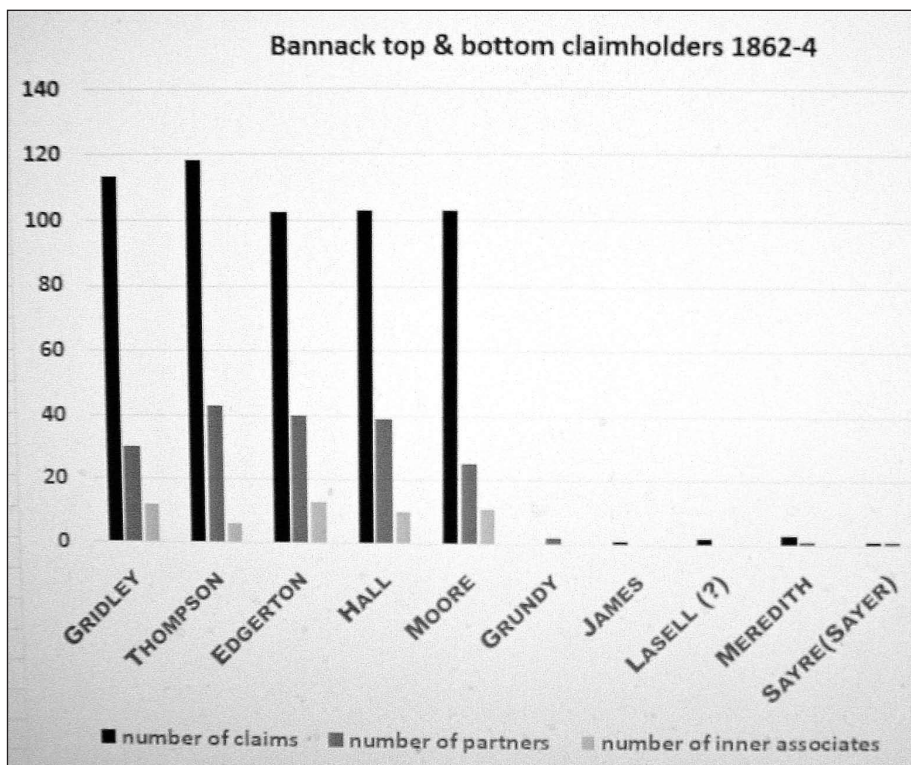
recorders in the 1862 to 1864 period was \$794, more than double those of the average miner (\$334) over the same period. In Idaho, mining property was less valuable but the records show a similar pattern. The average transactions of Boise Basin miners amounted to \$89 per person, whereas recorders averaged \$194 over the same three years.

Recorders also controlled the distribution of spoils to friends and VIPs. Mining claimants had obvious social and economic reasons for working within a network. Cooperative mining for both safety and efficiency was a lesson learned early in the gold camps. Yet, as the mining frontier expanded and became more competitive, some miners, especially those at the lower end of the social hierarchy, were “loners” working without partners or affiliates.

The chart below shows the difference between social and business networks of the largest claimholders compared with those of the smallest. The left side of the chart displays the five top

claim owners in Bannack. They have hundreds of claims, have thirty to forty partners or associates involved with the same claims, and have an inner circle of partners. All of the miner-speculators on the left side of the chart were prominent names in Montana politics and business. At the opposite extreme, on the right side, are five smalltime claim owners. They had only one or two claims each, had few partners, and had no prominent connections. The second from the right was a woman, Emma Meredith. She and her husband came overland from Minnesota with the Fisk party in 1862. Together they held three claims, but apparently did better preempting ranch land in Grasshopper Valley.<sup>40</sup>

Similar findings appear in Boise Basin records. I counted over 150 miners who held claims with one district recorder, Wash Underwood. Over a two-year period his claim associates included doctors, lawyers, prominent merchants, the county sheriff, and other officials of both political parties. The data reinforce the findings of Harwood



*Bannack top and bottom claimholders derived from the author's database.*

Hinton, who noted that some mining companies promoted sales by padding the membership with “names of personal friends, notable businessmen, or territorial officials.”<sup>41</sup>

### Mining Camp Democracy?

So, we confront the basic question again: Was the mining West progressive? A model of egalitarian democracy, or a democratic facade that masked authoritarian regimes of power and patronage? An examination of the claim books in Beaverhead County, Montana, and Boise Basin, Idaho, leans toward the view that democratic idealism was more myth than reality. The democratic phase lasted only so long as the first successful strike of paydirt. As a camp grew, the leaders quickly took over, using wealth and influence to dominate social, political, and economic development. In Montana, and to a lesser extent in Idaho, when standard instruments of law and order were not available while the territories were still in their formative stages, the ruling elite organized and led vigilante committees to put down any form of social unrest.<sup>42</sup>

Framing the issue in stark polar opposites obviously fails to consider the middle ground.

Andrea McDowell draws a somewhat different picture. She says mining camp behavior and mining code development arose out of self-interest, not democratic idealism.<sup>43</sup> Her analysis supports a behavioral model I would characterize as pragmatic egalitarianism. American miners were no different than anyone else, regardless of ethnicity or background. They may have believed in the “norm” of fairness, but they did what they had to do to advance their own interests, and when circumstances changed so did their behavior. But that leaves democracy in jeopardy, for egalitarian ideals alone are not enough to protect the weaker elements of society from more powerful elements. That is a lesson we should remember today, when democratic institutions are under attack around the world.

*An Idaho native, Ronald H. Limbaugh, Ph.D., retired in 2000 after thirty-four years of teaching American history at the University of the Pacific. He has written, co-authored or edited eleven books and many articles on a variety of topics and is a charter member of the Mining History Association. He thanks Alan Wallace, Brian Leech, and Bob Spude for their helpful ideas, and thanks the friendly public servants who staff the courthouses of Beaverhead County, Montana, and Boise County, Idaho, who allowed him to photocopy their mining records.*



*Bannack Montana (1862-1864). (Author's photo.)*



## Notes:

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23. Minutes of miners' meeting, 2 Mar. 1864, Book 2, Independent District, Bannack, Montana, Beaverhead County Recorder's Office, Dillon, Montana.
24. *Congressional Globe*, 39<sup>th</sup> Congress, 1<sup>st</sup> Session, 15 June 1866.
25. Thirty-ninth Congress Sess., S. 10, in: U.S. Congressional Documents and Debates, 1774-1875, Library of Congress website.
26. Joint Memorial to Congress, *Laws of the Territory [sic]*

- of Montana passed at the Second Session of the Legislature, 1866. Beginning March 5, 1866, and ending April 14, 1866. (Virginia City, Montana Territory: Democrat Office, 1866), 47-8.
27. *Congressional Globe*, 39th Cong., 1st Sess. (1866), 3226. See also: Charles H. Shamel, *Mining, Mineral and Geological Law: A Treatise on the Law of the United States* (London: Hill Pub. Co., 1907), 92-102; Yale, *Legal Titles to Mining Claims*, 381; Gordon Morris Bakken, *The Mining Law of 1872: Past, Politics, and Prospects* (Albuquerque: Univ. of New Mexico Press, 2008), 25-30.
  28. Bannack District miners' meeting, 15 Feb. 1864, Deed Book 1b, Northwestern and Bannack districts, 1862-1864, Beaverhead County Recorder's Office, Dillon, Montana (hereafter: Deed Book 1b), 641.
  29. Gender stereotypes are explained in a classic essay by Barbara Welter, "The Cult of True Womanhood, 1820-1860," *American Quarterly* 18, no. 2 (Sum. 1966), 151-74. For changing women's roles on the frontier, see: Robert V. Hine and John Mack Faragher, *The American West: A New Interpretive History* (New Haven: Yale Univ. Press, 2000).
  30. Virginia Rowe Towle, *Vigilante Woman* (New York: A. S. Barnes and Co., 1966), 73-87.
  31. Bancroft G. Davis found the same general lack of enforcement after Congress confirmed the validity of local mining codes in its 1866 and 1872 legislation. See: Davis, "Fifty Years of Mining law," *Harvard Law Review* 50, no. 6 (Apr. 1937): 897-908.
  32. James I. Stewart, "Essays on the Economic History of the American Frontier" [Reed College dissertation abstract], *Journal of Economic History* 65, no. 2 (June 2005): 524-7.
  33. Clay and Wright, "Order without Law?", 155-83.
  34. In ten years of working with thousands of Idaho and Montana records I have found only one reported instance where a Montana recorder's decision was challenged. In June 1865, a company of eleven Beaverhead miners tried to file on a new lode discovery, but the county recorder, Leonard Gridley, wanted more money for filing and certification than the miners proffered. The miners took the case to court, but Gridley had powerful friends. With Governor Edgerton leading the defense, the judge, Thomas Hosford, tried to appease both sides. He decided that the cost of filing was the only fee required, but then threw out the case because the miners had not submitted proof that they had staked the claim properly. See: (Virginia City) *Montana Post*, 10 June 1865.
  35. Helen Fitzgerald Sanders, *A History of Montana*, v. 2 (Chicago: Lewis Publishing Co., 1913), 851-3.
  36. No specific codes for the Mountain District, of which Gridley was recorder, have been found, but Montana codes followed precedents set in California and Colorado, which generally limited miners to one type of preemption claim per district. Idaho's district codes were initially just as restrictive, but in 1864 both territorial legislatures loosened the rules, limiting quartz claimants to one preemption per lode rather than per district.
  37. *Montana Post*, 28 Oct. 1865, 17 Feb. 1866, 19 May 1866, 2 June 1866; [An article on Montana excerpted from the (New York) *Evening Post* in] *American Mining Gazette and Geological Magazine* 3 (1 Jan.-31 Dec. 1866): 328.
  38. Sanders' problematic early political career is addressed in: Clark C. Spence, *Territorial Politics and Government in Montana, 1864-89* (Urbana: Univ. of Illinois, 1975), 22-140. Kenneth N. Owens has characterized the no-party power structure that ruled Montana in the 1870s and beyond as "at least equally as effective as the Santa Fe Ring." See: Owens, "Pattern and Structure in Western Territorial Politics," *Western Historical Quarterly* 1, no. 4 (Oct. 1970): 386-7.
  39. [Michael A.] Leeson, *History of Montana, 1739-1885* (Chicago: Warner, Beers, 1885), 272-6. For a different version of this story, see: W. F. Sanders, "A Reminiscence of Early Times," *Helena (MT) Weekly Herald*, 1 Jan. 1880, 11.
  40. Hubert Howe Bancroft, *History of Washington, Idaho, and Montana, 1845-1889* [v. 31 of Works], (San Francisco: The History Company, 1890), 622; Deed Book 1b, 222, 587-8, 611, 620-1.
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  43. Andrea McDowell, "Real Property, Spontaneous Order, and Norms in the Gold Mines," *Law and Social Inquiry* 29, no. 4 (Aut. 2004), 776-8.