AMERICAN CROSSROADS

Edited by Earl Lewis, George Lipsitz, George Sánchez, Dana Takagi, Laura Briggs, and Nikhil Pal Singh

Empire's Tracks

INDIGENOUS NATIONS, CHINESE WORKERS, AND THE TRANSCONTINENTAL RAILROAD

Manu Karuka

UNIVERSITY OF CALIFORNIA PRESS

moved and traveled in relation to the women in their lives, the Ghost Dance, like so many other prophetic movements among colonized peoples, cohering through the shared knowledge and practice of women participants.[44]

What might they have thought or felt after being pushed out of the train? Perhaps a sense of being pushed out of their own place, a palpable feeling of the colonial society that was built over their place in the world. If they took this as a communication from the conductor, perhaps there was a sense that, for the train conductor, a personification of railroad colonialism, Cheyennes were already living in the Land of the Dead, their home bereft of comfort, covered with foul spider webs. There was, perhaps, nothing living, nothing valuable, nothing generative, left for Cheyennes to give, from that other perspective. Or, perhaps they had a sense of the limitations of capitalism, of industrial technology. The elders set out, after all, to learn more information about a prophecy of the return of Indigenous nations' control over their homelands, and the return of their martyred relatives. Perhaps, after being pushed out of the train, the Cheyenne elders felt that the train was not a useful vehicle. This train would not take them where they wanted to go.

EIGHT

Shareholder Whiteness

THE YEAR 1869, DURING WHICH THE TRANSCONTINENTAL railroad was completed, also saw the publication of *Scenes in the Life of Harriet Tubman,* which provided an account of Tubman's involvement in the fight against slavery, and also helped Tubman pay pressing debts on her house.[1] In 1886, amidst a counterrevolution against Black people's experiments to realize freedom, amidst widespread and active forgetting of her living legacy, Tubman was struggling to cover the costs for housing and feeding poor Black people in Auburn, New York. She asked her collaborator, Sarah Bradford, to update the original book, resulting in a new edition entitled *Harriet, the Moses of Her People.* While the first book was published the year of the transcontinental railroad's completion, the second book was published the year that the U.S. Supreme Court found that corporations enjoyed the rights of persons, as granted under the Fourteenth Amendment. In short, Harriet Tubman's ongoing insurgent practices of Black mutuality took place under and against structures of debt and property. Her struggle continues. This chapter traces out emancipation as an incomplete breach of the estate, an emancipation of capital resulting in the development of shareholder whiteness.

Shareholder whiteness developed through the nexus of war and finance. In the last quarter of the nineteenth century, the standardization of a division of authority among the actors involved in corporations transformed the social nature of property. This was a fundamental transformation in the terms of whiteness, a historical process that was central to what Du Bois referred to as the "counter-revolution of property." Racism is an effect, not a cause, of imperialism. Whiteness, for example, is not a biological truth that can be traced genealogically, or on the skin. Whiteness is a fiction, but it has material impacts on the world. In this way, whiteness is like finance capital,

which Marx analyzed as fictitious capital. Marx explained that banking arises from the concentration of money capital, so that bankers "become the general managers of money capital," taking the place of individual lenders. We can trace this shift in what I call the incomplete breach of the estate under emancipation, which eradicated the possibility of an individual slaveholder's claims of property in slaves, but sustained the underlying claims of property in real estate.[2] Finance capital and whiteness ripened through a historical elaboration of relationships between imperial corporations and colonial states, forging and sustaining continental imperialism. I call this shareholder whiteness.

Fictitious capital develops in order to overcome barriers to the circulation of money capital, driving to preserve its flexibility and liquidity, as titles to capital carry their own value, becoming sites of accumulation, forms of capital, in their own right. The forms that capital took after emancipation had origins in the contradictory circulation and valorization of money, land, and slave forms of capital. As investors became increasingly disconnected from the sources of their revenue, financial profits seemed to arise through agreements between individuals, seemingly separated from, even independent of, the sweat of specific bodies in specific places. With the maturation of the modern corporation in the wake of emancipation, investors imagined financial accumulation as autonomous from labor, whiteness as autonomous from blackness and indigeneity.[3]

STATE AND CORPORATION

A close interrelationship between state and corporation has shaped the invasion and occupation of the Americas. In the early years of the invasion, emergent monarchies in Europe stabilized governance by granting corporate charters, relying on corporations to assume risks, particularly risks involving territorial expansion. Monarchies elaborated new, interlinked principles of sovereignty and property, combining security and improvement as prescriptions for colonialism. Over time, the law of corporations would blur distinctions between personal rights and rights in property. Corporate ownership would come to confer rights without responsibilities.[4]

In North America, corporate power is inextricable from countersovereignty. A critique of the state without a critique of the corporation is a sanctimonious hope. The relationship between sovereignty and property provided

foundational legal justifications for modern colonialism. Grotius, for example, sought to legitimize Dutch East India Company sovereignty, justifying the right of the United Provinces to engage in naval war on a preemptive basis. Not "natural" persons, but also more than a reflection of group identities, the state and corporation have each been interpreted as the apex of social hierarchy. In North America, as elsewhere in the colonized world, there is no clear and definitive way to assert priority between state and corporation, where imperial states granted charters but corporations established the terms of actual colonial power. Sovereignty and property emerged in reaction to Indigenous modes of relationship.[5]

Territorialization occurred through corporate charters. The rights of corporations served the interests of imperial sovereigns. Corporate charters delineated protocols for relations with Indigenous nations and colonial subjects, ranging from diplomacy to war, providing for the organization and maintenance of standing armies, predefining places as empty of political and economic claims. The charters of colonial corporations, such as the East India Company and Royal Africa Company, instituted the structures of colonial government, including powers to suspend the law and engage in war. In North America, by the 1600s, chartered corporations participated in land purchases that would later become the basis for colonial sovereignty claims, administered and regulated the terms of trade, and waged war. Corporate directors claimed state titles.[6]

In North America, the corporate share remains a core vehicle of continental imperialism. Joint-stock or chartered companies founded European colonies, mobilizing resources drawn from multiple investors, raising capital while leavening individual exposure to risk. Pooling risks for colonialism and slavery led to the development of very particular rationalities, empirical knowledge about the strategic immiseration of human life in the interests of maximizing returns on investment. In the United States, impulses of regulation and control lurk behind a thin veil of radical democracy, the succession of imperial sovereignty from the Crown to "the people," citizens as shareholders of a colonial corporation. The sovereignty of the colonial state, in the form of legal exemptions for the discipline of individuals and populations, displays a fundamentally corporate nature. Fabricating an order to govern property claims in both Indigenous lands and Black lives was a project of counterinsurgent reaction. Federal and state governments chartered and capitalized corporations, outlining their rights and responsibilities. The infrastructure of colonialism in North America has been built, in the main, by corporations,

with the oversight and planning of infrastructure leading to the growth of state administrative capacities, especially around taxation. Corporations assume core functions of state power in continental imperialism.[7]

CHARTERS AND TREATIES

Countersovereignty is at once an assertion of the property of the colonial state, *and* an assertion of the sovereignty of capital. In the 1810 decision *Fletcher v. Peck,* the first Supreme Court decision under the leadership of John Marshall, the court upheld the contract relation between individuals by ignoring the treaty rights of the Cherokee nation, emphasizing the sovereignty of the state of Georgia, and shifting the contract clause from a foundation in diplomacy, toward the direction of corporate interests. Marshall sought to replace diplomacy with contracts, as a means to capture Indigenous futures. Marshall's decision revolved around the territorial boundaries of the Proclamation of 1763, and whether the dissolution of those boundaries folded into the control of the U.S. federal government, or of the individual states. In Marshall's analysis, Native title was transitory and colonization was inevitable. Control of "vacant" lands, whether as a joint property of the United States, or as the property of separate states, was central to U.S. state formation, threatening, Marshall quaked, "to shake the American confederacy to its foundation." In the end, Marshall found that Indian title can potentially be seized under seisin in fee, a legal category representing a feudal fiefdom, on the part of individual states. From the perspective of the Cherokee nation in 1810, by Marshall's logic, the state of Georgia was a feudal overlord.[8]

Marshall's 1819 decision in *Trustees of Dartmouth College v. Woodward* restricted the rights of states from invalidating contracts on buying and selling land that was recognized, by treaty, as under tribal control. Marshall defined a corporation as "an artificial being, invisible, intangible, and existing only in contemplation of law." This "mere creature of law . . . possesses only those properties which the charter of its creation confers upon it." These properties, the sole possessions of the corporation, are immortality and individuality, "a perpetual succession of many persons are considered as the same, and may act as a single individual . . . a perpetual succession of individuals are capable of acting for the promotion of the particular object, like one immortal being." The corporation, in Marshall's logic, is predicated on a "perpetual succession" for colonizers. The futures of corporate ownership assert the futures of

countersovereignty. The citizen-shareholder is the agent and beneficiary of the war-finance nexus. As we will see, policing racial and territorial borders, as they shift over time, is at the heart of maintaining this perpetual succession. Inheritance and heritability become key questions for defining the terms of legibility for this immortal individual. The future of the corporation presupposes the future of the colonial state, and the law of the corporation colonizes the future. Shareholding profits arise from capturing a claim, a share, of future surplus. The value of shares is future-oriented, as with the preemption dimensions of countersovereignty, like the rents arising from real estate claims.[9] In North America, a corporate share is a means to claim both ownership *and* sovereignty, in reaction to Black and Indigenous modes of relationship.

Justice Washington's concurring argument distinguished between corporations for public government and those for private charity. Government, in his analysis, arises in the first instance from property interests in land. The distinction between government and charity can further be split into a distinction between a sovereign, who grants a charter, and a patron, who is a founder. Washington described the private corporation as "a franchise, or incorporeal hereditament, founded upon private property." "Incorporeal hereditament" is a kind of property, real property, which can be passed to an heir. At its core, countersovereignty emerges through claims in real estate, claims that can be inherited in a perpetual succession. While seemingly sequestering rent in the realm of the patron and investor, Washington invoked Blackstone, seeking to outline the precise character of corporations. "The founder of all corporations . . . in the strictest and original sense, is the king alone, for he only can incorporate a society." The U.S. corporation clothes itself in robes inherited from monarchy. What is central to the corporation is the capitalization of land, the basis for rent, which Marx described as "the form in which landed property is economically realized, valorized." Rent captures the futures of a place.[10]

Whose land is this? In the 1823 *Johnson v. M'Intosh* decision, the Supreme Court nullified tribal land ownership within U.S. law, restricting "aboriginal title" to the use and occupation of lands, by regulating trade within and beyond tribal territories. The relationship between property and sovereignty was at the heart of the *Johnson* decision. Marshall noted that the social right to prescribe rules for the acquisition and preservation of property claims, such as land titles, rests entirely "on the law of the nation in which they lie." In a context where Indigenous nations and colonial states lay claim to the same territory, this raises a question on which law supersedes the other. At no point

can Indigenous nationhood simply be ignored and evacuated in a property and political order rooted in conquest. This is why I refer to U.S. sovereignty as countersovereignty. It is inherently reactive to Indigenous modes of relationship. Relations between colonizers and Indigenous nations "were to be regulated by themselves," and no other power could interfere in these regulations, a chilling assertion of the rule of conquest that seeks to trap Indigenous politics within a colonial mode of relationship. A specter is haunting North America—the specter of anticolonial internationalism. *Johnson v. M'Intosh* hinges on a real estate transaction. Marshall theorized what he called "the original fundamental principle": the exclusionary, exclusive underpinnings of property in land and sovereignty alike. In North America, the two constitute each other. Countersovereignty "necessarily diminished" tribal nations' rights to self-governance, as well as "their power to dispose of the soil." Countersovereignty, as an assertion of "ultimate dominion," is exercised as "a power to grant the soil, while yet in possession of the natives." Countersovereignty is, at heart, an assertion of the power to destroy Indigenous nations' ongoing modes of relationship, to wipe away ongoing Indigenous collective presence on Indigenous lands. Countersovereignty works by diminishing the possibilities of Indigenous-centered diplomacy, backed by the threat of catastrophic violence.[11]

At stake is the alienation of the earth itself into the capital relation. Countersovereignty rests on this dual process of police power and capitalization. The sovereign is bound by the stipulations of the colonial grant. Colonial charters combine powers of government with powers "expressly granting the land, the soil, and the waters," and the state asserts its sovereignty by granting charters. The states initially forming the United States inherited their relations with Indigenous communities from the colonial corporations that preceded them. Marshall argued that, in joining the United States, these states ceded "the soil as well as the jurisdiction" of tribal lands to the U.S., "and that in doing so, they granted a productive fund to the government of the Union." Colonialism in North America has proceeded through the interrelationship of state *and* corporation.[12]

EMPTINESS

Filius nullius, the bastard child, joins *terra nullius,* the empty place, as constituent elements of countersovereignty. A colonial sleight-of-hand, "the use of a commercial principle to vitiate a social relationship," defines land and bodies as empty of human relationships, clearing the way for a property order that refuses relationships and produces death at ever-expanding scales. The category of *filius nullius* marks a legal refusal of recognition. Legal personhood rested on a claim to inheritance rights, rights to participate in the reproduction of social relations of ownership, rights of inheritance to the "perpetual succession" of Marshall's corporate jurisprudence. The enslaved person, excluded from the bounds of state-sanctioned marriage, excluded from functional claims to the capacities of binary gender, and excluded from the prerogatives of holding wealth, constituting instead the basis of wealth, was, definitively, not *filius.* Rather than inheriting property, slaves constituted the inheritance of others, denied any recognition of familial or other collective identity. Enslaved women gave birth to property, while white women could give birth to potential owners of property.[13]

A dead body that has not been buried is *res nullius,* gaining legal recognition only after a living person has worked on it, recognition arising from the labor of another. There is an echo here with the alibi of "improvement," an alibi of perpetual deferral (it never seems to be finished), which is used to justify racism and colonialism on civilizational grounds. From a colonialist perspective, the dividing line between civilization and savagery is a dividing line between animate bodies and unburied corpses. The law of slavery disfigured the personhood of people claimed as property. The depersonification of the slave posed a contradiction for the possibility of manumission under the law of slavery. How could a thing become a person, without irrevocably disrupting the property relation, which is constituted by the legal boundaries between things and persons? How could a thing become a person? There is a deep, contradictory relationship between the legal status of a corporation and the legal status of a slave.[14]

The gap between the slave and the corporate share might be one place to glimpse the gap between blackness and whiteness, the first predefined as criminal, the second receiving the full protection of, and immunity from, the law. Whiteness entails membership in a colonial succession, conceived of as having everlasting life.[15] This membership is predicated on the restriction of white women's sexuality, to cohere and protect the heritability of white racial purity. Ownership of shares originally implied ownership of a share of a company's assets, viewed as equitable interests in the property of a company. Shares could consist of either real or personal estate, depending on the nature of a company's assets. Under this theory of the share, the corporation was not an

entity that could be considered separately from the people who constituted it. Beginning in the 1830s, a separation began to be elaborated between the shareholder and the corporation, separating corporate shares (intangible forms of property: rights to revenue, rights of property) from corporate property (concrete, material goods or services). According to the logic of slave law, slaves, who had no civil capacities of their own, could commit criminal acts, but not civil acts. The agency of slaves, where it was legally recognized as such, was predefined as a criminal agency, and this predefinition underwrote the slave, itself, as a legal category. The legal recognition of the slave was elaborated alongside the legal recognition of the corporation, enshrining the power of the owner, providing impunity for the violence of property claims over Black people and Indigenous land. The gap between the slave and the corporate share might be one place to glimpse the gap between blackness and whiteness.[16]

The relationship between sovereignty and property outlines the war-finance nexus. In the 1832 case *Worcester v. Georgia,* the Supreme Court found that tribal governments engage with the United States at the federal level, not the state level, following priorities that Congress asserted in the Trade and Intercourse Acts. Marshall noted that the British crown granted corporate charters in order to establish American colonies, before the fact of possession. This was, Marshall argued, restricted to "the exclusive right of purchasing such lands as the natives were willing to sell." Colonial corporations in North America have the right to engage in war to defend their real estate. These war powers inform Marshall's understanding of the relationship between the Cherokee nation and the United States, which "receive the Cherokee nation into their favor and protection." The federal relationship with tribal nations is a protection racket over capitalized tribal lands and resources.[17]

Fugitive slave law and Indian removals outlined a space for the circulation of a national currency, a space where property claims on Black people, and on Indigenous lands, would be backed by the authority and force of the state. This was the "domestic territory" of the United States. The National Banking Act, passed on February 25, 1863, provided for the issue and regulation of a uniform national currency, in order to standardize the multiple forms of bank notes circulating through the U.S. economy. The banking act was a significant infrastructural development to produce a territorially bounded political economy, a counterpart to the Pacific Railway Act, which Lincoln had signed into law six months earlier, enabling the development of hundreds of new banks, the concentration of the banking sector in New York City, and a diffusion of smaller-scale investment across the United States. The act placed limits on the liabilities of individuals, companies, and firms holding shares in banking corporations. The perpetual succession of the corporation included an inheritance in limited liability. In the United States, a market in small shares developed in efforts to raise capital to fund the U.S. military effort in the Civil War. New York's financial and merchant elites had risen to prominence through close interrelationship and investment in the cotton plantocracy, leading them to oppose Republican Party policies. The response from the Treasury Department helped inaugurate a transformation of financial institutions into their current form, with the introduction of a standard paper currency. In 1869, the year of transcontinental railroad completion, the Open Board of Stock Brokers merged with the New York Stock Exchange, spatially extending the stock market through the telegraph, enabling an exponential growth in securities trading. In the United States, the basic infrastructure for financial capitalism was constructed in a context of war over slavery's futures.[18]

Almost $2.8 billion in war debts to finance the Civil War, at a moment of collapse in the cotton trade, provided immediate incentive for U.S. merchants to forge modern financial corporations, giving rise, by the time of the defeat of the Confederacy, to widespread shareholder interests in westward expansion, diffused throughout the population of Midwestern farmers and small business owners. Innovations resulted in the growth of a mass market of small investors in war bonds, a new market in securities, and the incorporation of new investment houses, including Lehman Brothers and Goldman Sachs. These banking firms developed new techniques, particularly ways to maintain price levels on securities, which would become standard techniques in railroad finance. Railroads provided early opportunities for investing capital in securities, ultimately tied to land grants. Railroad land grants served to further concentrate the control of land and capital, with fourteen railroads receiving nearly all of the 180 million acres of land granted by the U.S. federal and state governments. Continental imperialism proceeds through the centralization of capital, and the railroad corporation was a core vehicle for the war-finance nexus.[19]

THE EMANCIPATION OF CAPITAL

Emancipation marked the most fundamental breach, to date, for the U.S. property order, opening the capital claim to transformation, perhaps even

eradication. Emancipation fundamentally ruptured the practice of ownership in the United States. Property, in the U.S., shows its face at the crossroads of racialization and territorialization. Racial differentiation is materially linked to the control of specific places. The threat and actuality of racist violence suffuses a certain space as a threat space, a space of terror. This, too, was the "domestic territory" of the United States. While emancipation formally ended chattel slavery as a property system, it failed to disturb real estate as a property system. There is yet to be a breach with a basic presupposition of U.S. colonial power: the willful misreading of international treaties with tribal nations as real estate contracts.[20] In the generation after emancipation, this incomplete breach in the estate authorized the continued organization of collective life around alienated, exclusionary, and possessive claims on space.

Control over space provided a basis for instituting Black indebtedness and criminalization after emancipation. After emancipation, racial indebtedness was inflected twice over: Black freedom rescripted as a condition of indebtedness to white progress, and Black criminality as a condition of indebtedness to white law. Black indebtedness was linked to Black criminalization on a spatial basis, the crime of loitering, the indolence of Black mobility after slavery's end. This can be contrasted to compensation for slaveowners, the corresponding development of a lingering mythology of national whiteness as creditor to African Americans and tribal nations, and the invention of southern white male nobility to perfume over the stench of high treason.

By the late nineteenth century, as corporation law inhered the personhood of corporations, the legal personhood of felons was moving in a completely contrary trajectory of depersonalization. During the historical period when corporations gained legal recognition as persons, felons lost legal recognition as persons. Human nonpersons, juridically designated as felons, overwhelmingly Black people, worked for corporations under forced labor conditions, providing the core labor to rebuild the transportation infrastructure of the southern United States, a massive corporate subsidy. Even when Black people leased out as convicts did not labor directly for corporations, the fruits of their labor, organized with a complete disregard for their own survival, rebuilt an infrastructure for capital accumulation across the region. In Atlanta, the elaboration of the meanings of emancipation took place within the context of rebuilding the infrastructure of the city, as novice employers engaged freedwomen's demands for control over their own labor, in the space of the white household.[21]

Emancipation threw the interrelationships of sovereignty and property into question. The historical emergence of the legal personhood of the corporation would be predicated on a conception of personhood as self-possession. Self-ownership was a predicate for understanding the corporation as a distinct and separate entity from its shareholders and creditors. This transformed the meaning of ownership, distinguishing tangible corporate capital from intangible corporate shares, making ownership itself more fungible and alienable. Whiteness, as a form of property, can be understood as the capacity to be an owner, a capacity that increasingly separated tangible from intangible claims, so that whiteness, as property, could be progressively abstracted from the possibility of owning slaves, to a more generalized share in the dividends arising from Black suffering. Whiteness is a reactionary formation, an inheritance in countersovereignty. A share can be understood as "a claim to a part of the profit." Shareholder whiteness is a claim to what W.E.B. Du Bois referred to as the "dividends of whiteness," not merely psychological, but also material. In the aftermath of emancipation, whiteness began to take a shareholding form, the passive ownership of functionless investors in racial capitalism.[22]

Was this the emancipation of the enslaved, or was it the emancipation of capital? Shareholder whiteness is a cover for law-breaking, an enfranchisement of whiteness over Indigenous and Black modes of relationship. Corporations slithered between legal conceptions of "real" person and "collective aggregate" in ways that allowed them to capture legal and political rights while shirking responsibilities and obligations. The context for these maneuvers was a historical transformation of the concept of personhood and the emergence of the singular individual, harnessing the idea of free labor to the idea of free trade as constituent elements of liberal imperialism.[23]

By delinking from claims on actual existing assets, which represent the capital of a corporation, and instead organizing around future claims on corporate assets, the share, in the present moment, multiplies the capital in circulation for a given set of tangible assets, such as land, resources, or labor. As these fictitious capitals developed, they were reified and fetishized as things in their own right, and capital itself began to be understood as equally productive as labor. In the United States, this "fetishization of money capital," the basis of the dominance of market ideologies beginning in the mid-nineteenth century, grew out of interactions with fetishized whiteness, and the corresponding dominance of nationalist myths of frontier and lost-cause masculinities. Once slave property claims were removed from the balance

sheet, property claims in future revenues became depersonalized and increasingly immaterial, seeming to take on a personality of their own. The withdrawal of capitalists from the production process, henceforth to be supervised by managers, facilitated the development of shares and other forms of credit, but it also reflected the large-plantation model of management by overseers. The modern corporation bears traces of the antebellum plantation.[24]

Against an emerging ideal of "shareholder democracy," corporate power increasingly emphasized managers and directors, technocrats and experts, over a democracy of property owners. Shifting accountability from public governance to the structures of corporate capitalism, shareholder democracy involved a concentration of economic and political power, transforming relationships within and beyond whiteness, splitting the ownership of industrial capital from money capital, multiplying the actual assets of a corporation. A divide between those with rights in the corporation, and those who "are merely 'owed'," reflects a divide in whiteness, between the technocratic administrators of racial and colonial capital, and the beneficiaries of imperialist futures. Capturing and controlling corporate assets as common property would fail to resolve the colonial and racial contradictions that shape corporate assets. Railroad unions that actively excluded Black workers from membership and employment, sometimes striking to demand the elimination of Black workers, fulfilled shareholder whiteness.[25]

In the post-emancipation era, corporate property was defined through legislation and judicial reasoning, rated and regulated by state institutions, the sanctity of individual property claims upheld, in the final instance, by the police and the army. Compulsory Black labor, justified by notions of Black indebtedness to the United States, shaped a transition to a new racial regime. This transition took place in a context of mass white terrorism under state sanction; Ida B. Wells pointed to the legal impunities of racist violence as a constituent feature of the law itself. Expansion of police powers informed the Indian Appropriations Act, passed by Congress in March 1871, in which Congress declared that it would unilaterally suspend the treaty process with tribal nations, thereby evacuating the international diplomatic protocols governing the U.S. "national" interior. While the United States continued to acknowledge the presence of "independent tribes, nations, or powers" it would not recognize these as distinct political actors "within the territory of the United States," expanding the scope and claims of the federal government.[26]

While the United States was suspending diplomatic relations with Indigenous nations, a debate over the legal status of corporations was shaped, in part, by relations of debt. Amidst land grants to railroad corporations, and a growing international market in railroad securities, U.S. courts began to reconceive the corporation as an entity apart from its shareholders, focusing on the terms of contract between the corporation and its shareholders. If the corporation was a person, it was indentured to its shareholders. This was a very different form of debt than the racial and civilizational debt invoked to valuate Indigenous and Black modes of relationship. Corporate debt was, instead, an enabling sort of debt.[27]

EXCLUSION AND POSSESSION

The Chinese Exclusion Act, passed in 1882, like the Indian Appropriations Act, legislated territorial and racial boundaries for the putative interior of the United States. Chinese exclusion was about U.S. control over the circulation of Chinese bodies in space, rendering individual Chinese bodies vulnerable to forced expulsion. The exclusion act, like the Fugitive Slave Law, legislated the infrastructure for controlling this circulation, including offices, papers, and procedures. I want to suggest a linkage between control over the circulation of Chinese bodies and the circulation of corporate debts and shares, constituent elements of what I am calling shareholder whiteness.[28]

The core of private property is the "right to exclude others." Chinese exclusion, following both the Indian Appropriations Act and the Fugitive Slave Law, could be understood as territorialization through the property right, excluding racial aliens and Indigenous nations from the territorial space the law has designated for white citizens, and those who could become white citizens. In his foundational 1886 treatise on police power in the United States, Christopher Tiedeman wrote,

> when an altogether dissimilar race seeks admission to the country ... the State may properly refuse them the privilege of immigration. And this is the course adopted by the American government towards the Chinese who threaten to invade and take complete possession of the Pacific coast ... It was even feared that the white population, not being able to subsist on the diet of the Chinese, and consequently being unable to work for as low wages, would be forced to leave the country, and as they moved eastward, the Chinese would take their place, until finally the whole country would swarm with the almond-eyed Asiatic.

Continental imperialism, across the breach in property that we call emancipation, is conditioned on racial exclusions from humanity, from politics, and from places, exclusions which cannot be neatly divorced from territorial power.[29]

As corporations grew in size, beginning to gain recognition as autonomous legal actors, they began to compete with the sovereignty of the states that had originally chartered them. In 1882, the year of Chinese exclusion, the first major trust, Standard Oil, was formed. Individual shareholders exchanged their stock for trust certificates, enabling the trust to claim immunity from legal prohibitions against one corporation holding the stock of another, prohibitions that had been designated to prevent monopoly formation. From the 1880s to the first years of the twentieth century, one of the shifts in corporate law was a removal of requirements of unanimous shareholder approval for corporate mergers, calcifying a sense of the corporation as a distinct entity in its own right, and not the representation of collective shareholder rights and interests. The emergence of trusts was a mark of the centralization of financial and industrial capital, the consolidation of monopoly power, and the development of cartels.[30]

In 1883, the year that the U. S. Supreme Court found the 1875 Civil Rights Act to be unconstitutional, Ida B. Wells boarded the Chesapeake & Ohio Railway, of which Collis Huntington was an owner, in Memphis, after purchasing a first-class ticket. The conductor refused to honor her ticket, demanding that she sit in the smoking car. Wells later recalled, "I thought if he didn't want the ticket I wouldn't bother about it so went on reading." The conductor attacked her, tearing her dress, and Wells defended herself until two passengers assisted the conductor to forcibly remove her from the car. Standing between the cars, Wells decided to disembark at the next stop, to the loud cheers of white passengers. She sued, and won damages from the railroad. Her experience and her case were part of a wave of resistance by Black women against the enforced vulnerabilities of racial segregation on trains. Railroads, Wells demonstrated, were infrastructures for producing the practical meanings of gender through the racial control of bodies in space. The railroad corporation appealed the ruling, which was overturned in April 1887, by the Tennessee Supreme Court.[31]

The abridgement of Black freedom concretized through the practice of corporate freedom. We can see this in *Yick Wo v. Hopkins,* a case which is seemingly about neither Black nor corporate freedom. A series of cases in the Ninth Circuit, grouped as Chinese equal protection cases, emphasized corporations' right to be free from state interference. The court's decision revolved around contract relations and economic rights. A decision, seemingly about the civil rights of Chinese noncitizens, shows its true import, defining competence, qualification of legal persons in relation to public interests, and constraints on government action. The court invoked the Fourteenth Amendment in its decision, not to uphold the legal rights of "strangers and aliens," but instead to uphold U. S. territorial authority. The crux of the decision is that vesting the powers of sovereignty, "author and source of law," in the hands of an individual, would undo "the victorious progress of the race in securing to men the blessings of civilization" and represent "the essence of slavery itself." Emancipation necessitated the end of sovereignty in the individual slaveholder, and *Yick Wo* was part of a process that cohered sovereignty, instead, in shareholder whiteness. Corporate freedom authorized the counterrevolution of property.[32]

On the same day that it submitted its decision on *Yick Wo v. Hopkins,* six days after the firestorm at Haymarket Square that continues to be commemorated every May 1 by workers around the world, the U. S. Supreme Court submitted its decision on *Santa Clara v. Southern Pacific,* a case revolving around a branch of the Central Pacific Railroad's parent company. In the headnotes for the decision, the clerk recorded, "The court does not wish to hear the argument on the question whether the provision in the Fourteenth Amendment to the Constitution, which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are all of the opinion that it does." The decision further evacuated collective Indigenous territorial rights from U. S. federal law, failing to consider Indigenous territorial rights against both the Southern Pacific Railroad and Santa Clara County, enshrining the Fourteenth Amendment as the "chief refuge and bulwark of corporations."[33]

The case revolved around taxes levied, in fiscal year 1882, the year of the Chinese Exclusion Act, on fences bordering the tracks. The decision locates the birth of this particular corporate person in the Pacific Railway Act, in which "every part of it was declared to be a post route and military road." This particular corporate person was part of the infrastructure of military occupation. The decision moves to find that the Southern Pacific Railroad Company is not the property of its shareholders. It is, instead, a "person" who owns the fences, tracks, and materials of the railroad, and as a "person" who owns things, the Southern Pacific cannot be owned by others. That would make it a slave. Instead, the Southern Pacific relates to others on the basis of

ownership. Corporations transformed, from extensions of state power for establishing sovereignty, into sanctuaries from state power for the accumulation of capital. The court moves on to define the relationship between "foundation" and "superstructure," finding that the roadbed is the foundation, and the rails are the superstructure. The foundation, the court argues, can be taxed as part of the roadway. Corporate personhood was first articulated in relation to a railroad corporation, through the constitutional amendment guaranteeing citizenship, due process, and equal protection to formerly enslaved people and their descendants. Corporate personhood was articulated around a principle of freedom from taxation, articulated around fences, a mechanism of exclusion. The concept of corporate personhood defined the corporation as a legal entity with its own independent existence, separating the company from its shareholders. Where racial exclusions functioned to enhance vulnerabilities to violence, exclusions in capital functions enriched shareholders, limiting exposure to liability and risk. Shareholder whiteness can be understood as a creation of the state and a liberty against the state, as a form of property, a legal embodiment of capital.[34]

LIMITING THE LIABILITIES OF WHITENESS

The Interstate Commerce Act, passed on February 4, 1887, was intended to regulate railroads "engaged in the transportation of passengers or property" across state lines. The act declared "unjust discrimination" in fees, rates, and rebates, whether direct or indirect, to be unlawful, stating that all railroad carriers were responsible for providing "reasonable, proper, and equal facilities for the interchange of traffic between their respective lines." The act instituted an Interstate Commerce Commission, housed in the Interior Department, which would regulate the movement of people and goods across state lines. This involved administrative innovations that echoed the administrative structure of Chinese exclusion. Both laws legislatively outlined a certain geographic space as the "interior" of the United States, to administratively establish its control over territory, key mechanisms of continental imperialism.[35]

Congress passed the Dawes Act four days after President Cleveland signed the Interstate Commerce Act into law. The two laws can be read together as acts of imperial state formation, controlling and regulating bodies in relation to places. Under the guise of enfranchising individual Indigenous people

through ownership of land deeds, allotment attempted to splinter collective landholdings, and to shatter distinct tribal protocols of use and ownership. Allotment policy, administered through colonialist conceptions of marriage, family, and household, further diminished U.S. recognition of tribal landholdings and tribal membership. Presented as reform through the empowerment of individual Indigenous people, allotment resulted in a loss of the great majority of reservation land into nonnative control. The elaboration of corporate personhood emerged in relation to the destruction of the collective personality of Indigenous communities, enabling a further centralization of capital. The war-finance nexus was predicated on individual property rights over tribal lands and resources, asserted through the decimation of Indigenous collective territorial rights. The decades-long practice of granting Indian lands to railroad corporations joined allotments, attempting to dissipate Indigenous modes of relationship. Corporate personhood inoculated railroads and other corporations from accountability for the expropriation of Indian lands, and the resources on them. The explosion of corporate activity in the second half of the nineteenth century was located, primarily, in Indian country, building and maintaining colonial infrastructure for the extraction of resources from tribal lands. Allotment was a mechanism for this corporation explosion, a seemingly bloodless dispossession through the capital relation, proceeding through its own definitions of personhood. Those deemed "incompetent," often along racial and gendered lines, were given title in trust, and those deemed "competent" were given title in fee simple, imposing both U.S. citizenship and property taxes on their land. Almost 60 percent of the lands allotted under fee simple were lost within a decade, overwhelmingly to state tax foreclosure.[36]

By the 1880s and 1890s, the Supreme Court further removed restrictions and limitations on the recognized powers of corporations. New Jersey's 1888 and 1889 general incorporation laws provided virtually unrestricted legal rights to corporations, allowing corporations to own stock in other corporations, ultimately funding the entire expenses of New Jersey state government. While recognizing the personhood of railroad corporations, the federal government limited the scope of its recognition of Black personhood. The removal of protection for Black citizens is linked to the establishment of protection for corporations. Railroad corporations, and their employees and customers, enforced the removal of legal and social protections for Black people. The railroad was a vehicle for the counterrevolution of property.[37]

In *Plessy v. Ferguson,* the Supreme Court was to find that corporate capital trumped Black personhood. The court's decision cited Ida B. Wells's

overturned decision in the Tennessee Supreme Court. The *Plessy* decision limited the liability of railroad corporations, and of shareholders in whiteness. Limited liability has the function of transferring risk from investors to creditors, shifting from industrial forms, involving the exercise of authority over production and distribution, to a financial form, involving collective investments for nominal title, without the authority of management or responsibility for debt. Limited liability facilitated a transformation in the capital relationship, by which those who invested their capital no longer expected to have control over the administration of that capital. Shifting from an active relationship of ownership to a more passive relationship of credit is a key aspect of the formation of shareholder whiteness.[38]

Plessy responded to a Louisiana statute instituting exclusionary racial borders within railroads operating in the state, empowering and requiring railroad employees to uphold and enforce state power. The majority decision agreed with these core principles, reading race as "a distinction which is founded in the color of the two races, and which must always exist so long as white men are distinguished from the other race by color." The incoherence of this stance is famously clear just a few paragraphs earlier, when the court described Homer Plessy as "seven eighths Caucasian and one eighth African blood; that the mixture of colored blood was not discernible in him." Color, in this logic, is not visible on the skin, but is instead an infrastructural function of bodies moving through space, and race was made legible through the administration and operation of the railroad itself. "The power to assign to a particular coach obviously implies the power to determine to which race the passenger belongs, as well as the power to determine who, under the laws of a particular State, is to be deemed a white, and who a colored person." From theorizing race, the court moved to theorize the enforcement of racial segregation in schools, and prohibitions on interracial marriages by state governments as "the exercise of their police power." Race and police power, in *Plessy,* are clarified as infrastructures of territorialization, the control over the relationships between bodies in place. Justice Harlan's dissenting opinion pointed to the example of Chinese people, racially excluded from the "nation," who were, nevertheless, not prohibited from white train cars under Louisiana law. His arguments raise not only the question of racial aliens, but also Native peoples, citizens of tribal nations, who were not, at the time of the decision, recognized as citizens of the United States.[39]

The United States renewed a federal bankruptcy statute in 1898, months after launching a war with Spain, over control of its Caribbean and Southeast

Asian colonies. This was a foreign policy that primarily functioned as "a struggle for profitable markets of investment," for "a nation living upon tribute from abroad." Continental imperialism involved an overaccumulation of investments on railroads, collapse of functioning railroads due to mismanagement, and ongoing gaps between capitalization and colonial sovereignty in the vast territories that railroads connected or passed through. Land grants to the Union Pacific Railroad, alone, covered an area the size of New England. In 1898, the Interstate Commerce Commission, examining massive railroad trusts, flatly stated that the railroad "is essentially a monopoly," and hence it must be regulated. As "non-individualistic" or "collectivist legal institutions," corporate persons paradoxically matured during the high season of liberal individualism, baring contradictions of the rule of individuals through racial and colonial monopolies, contradictions tending toward the promotion of oligarchic control of state and corporation alike. Shareholding whiteness is one name we could use to refer to these oligarchic tendencies. The perpetually deferred premise of liberal individualism functions as an alibi for ongoing vulnerabilities to overwhelming violence along racial and colonial lines, the underbelly of Frederick Jackson Turner's frontier.[40]

30. Henry C. Parry, "Letters from the Frontier," *General Magazine and Historical Chronicle,* University of Pennsylvania, April 1958, letters of June 9, 1867 and June 23, 1867.

31. Wm. Meyers to John Gibbon, July 22, 1867; Augur to John Gibbon, July 27, 1867, NARA Record Group 393.

32. Telegram to Lieut. Chas. Henry, 26th Infantry, NARA Record Group 393; Thomas Bates to John Gibbon, September 1, 1867, NARA Record Group 393, Part V.

33. See Loretta Fowler, *Tribal Sovereignty and the Historical Imagination: Cheyenne-Arapaho Politics* (Lincoln: University of Nebraska Press, 2002), chap. 1.

34. John Gibbon, December 31, 1867, NARA Record Group 393.

35. G. M. Dodge to C. C. Augur, January 14, 1868, NARA Record Group 393.

36. John Gibbon to Litchfield, February 15, 1868, NARA Record Group 393.

37. C. C. Augur to John Gibbon, February 27, 1868; G. M. Dodge to John Gibbon, April 17, 1868, NARA Record Group 393.

38. John Gibbon to Col. R. I. Dodge, 30th M. S. Infantry, April 22, 1868; C. C. Augur to Mizner, April 29, 1867; John Gibbon to R. I. Dodge, April 24, 1868; NARA Record Group 393.

39. John Gibbon to Ed Ball, April 26, 1868, NARA Record Group 393. "Counterinsurgency . . . is also dependent on the militarization of counterinsurgent civilians": Khalili, 207; Jean O'Brien, *Firsting and Lasting: Writing Indians Out of Existence in New England* (Minneapolis: University of Minnesota Press, 2010).

40. John Gibbon to Gen. A. B. Dyer, April 28, 1868, RG 393, NARA.

41. *Biography of Dodge,* 965.

42. Hyde, *Life of George Bent,* 332–35, 340; Killsback, "Legacy of Little Wolf," 103.

43. Stands in Timber and Liberty, *Cheyenne Memories,* 260.

44. Alex Ruuska, "Ghost Dancing and the Iron Horse: Surviving through Tradition and Technology," *Technology and Culture* 52, no. 3 (2011): 574–97.

CHAPTER EIGHT

1. Sarah Bradford, *Scenes in the Life of Harriet Tubman,* Auburn, NY: W. J. Moses, 1869; Sarah Bradford, *Harriet, the Moses of Her People* (New York: G. R. Lockwood & Son, 1886); Kate Clifford Larson, *Bound for the Promised Land: Harriet Tubman—Portrait of an American Hero* (New York: Ballantine, 2004), 244–45, 248.

2. Karl Marx, *Capital, Vol. 3* (New York: Penguin Books, 1993), 528; Du Bois, *Black Reconstruction,* 136; William G. Roy, *Socializing Capital: The Rise of the Large Industrial Corporation in America* Princeton, NJ: Princeton University Press, 1997), 10–11, 14.

3. This bears a relationship to the development of a concept of land as an equivalent of money, and money's association with debt. "The new liquidity of land made it possible for real estate to become the basis of a new economy, as well as the growth of colonial states": Park, "Money, Mortgages," 1009, 1012; Paddy Ireland, Ian Grigg-Spall, and Dave Kelly, "The Conceptual Foundations of Modern Company Law," *Journal of Law and Society* 14, no. 1 (Spring 1987): 156; Harvey, *The Limits to Capital,* chap. 9.

4. Christopher Tomlins, "The Supreme Sovereignty of the State: A Genealogy of Police in American Constitutional Law, from the Founding Era to *Lochner,*" in *Police and the Liberal State,* ed. Markus D. Dubber and Mariana Valverde (Stanford, CA: Stanford University Press, 2008), 36; Khalili, 173; Roy, *Socializing Capital,* 47; Cedric Robinson, *Forgeries of Memory and Meaning: Blacks and the Regimes of Race in American Film before World War II* (Chapel Hill: University of North Carolina Press, 2007), 13–14; Frederick Engels, "On the Decline of Feudalism and the Emergence of National States," in Karl Marx and Frederick Engels, *On the National and Colonial Questions* (New Delhi: LeftWord Press, 2001).

5. John Dewey, "The Historic Background of Corporate Legal Personality," *Yale Law Journal* 70, no. 6 (April 1926): 669; Morris Cohen, "Property and Sovereignty," *Cornell Law Quarterly* 1, no. 1 (1927): 8–9; Eric Wilson, *The Savage Republic: De Indis of Hugo Grotius, Republicanism, and Dutch Hegemony within the Early Modern World-System (c. 1600–1619)* (Leiden: Martinus Nijhoff, 2008): 257; Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (New York: Cambridge University Press, 2010), 131–37.

6. Joshua Barkan, *Corporate Sovereignty: Law and Government under Capitalism* (Minneapolis: University of Minnesota Press, 2013), 34–35, 51; Joanne Barker, "The Corporation and the Tribe," *American Indian Quarterly* 39, no. 3 (Summer 2015): 252.

7. On the roots of land as real estate, and land as security for credit, see Park, "Money, Mortgages," 1006–35; Ireland, Grigg-Spall, and Kelly, "Conceptual Foundations," 155; Stephanie Smallwood, *Saltwater Slavery: A Middle Passage from Africa to American Diaspora* (Cambridge, MA: Harvard University Press, 2007); Zenia Kish and Justin Leroy, "Bonded Life, " *Cultural Studies* 29, nos. 5–6 (2015): 630–51; Ian Baucom, *Specters of the Atlantic: Finance Capital, Slavery, and the Philosophy of History* (Durham, NC: Duke University Press, 2005); Christopher G. Tiedeman, *A Treatise on the Limitations of Police Power in the United States* (St. Louis: F. H. Thomas Law, 1886), 1–3; Mark Neocleous, *The Fabrication of Social Order: A Critical Theory of Police Power* (London: Pluto Press, 2000), 3–5, 11; Nikhil Singh, "The Whiteness of Police," *American Quarterly* 66, no. 4 (2014); Barkan, *Corporate Sovereignty,* 20, 26–27, 34, 42, 50–51, 53–54; Roy, *Socializing Capital,* 41, 50.

8. Fletcher v. Peck, 10 U.S. 87, 94–96 (1810); Cheryl Harris, "Finding Sojourner's Truth: Race, Gender and the Institution of Property," *Cardozo Law Review* 18, no. 2 (1996): 387–88; Charles Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997), 49–51; Frank Shockey, " 'Invidious' American Indian Tribal Sovereignty: Morton v. Mancari Contra Adarand Constructors, Inc., v. Pena, Rice v. Cayetano, and Other Recent Cases," *American Indian Law Review* 25, no. 2 (2000 / 2001): 275–313; Charles F. Hobson, *The Great Yazoo Lands Sale: The Case of*

Fletcher v. Peck (Lawrence: University Press of Kansas, 2016); Barker, "Corporation and the Tribe," 255.

9. The Trustees of Dartmouth College v. Woodward, 17 U.S. 518, 633–34, 641 (1819); Paul A. Baran and Paul M. Sweezy, *Monopoly Capital: An Essay on the American Economic and Social Order* (New York: Monthly Review Press, 1966), 48; Barkan, *Corporate Sovereignty*, 3–4, 6, 52; Barker, "Corporation and the Tribe," 246; Ireland, Grigg-Spall, and Kelly, "Conceptual Foundations," 157; Harris, "Finding Sojourner's Truth," 345; Paddy Ireland, "Company Law and the Myth of Shareholder Ownership," *Modern Law Review* 62, no. 1 (1999): 46.

10. Samir Amin, "The Surplus of Monopoly Capital and the Imperialist Rent," *Monthly Review* 64, no. 3 (July / August 2012); Park, "Money, Mortgages," 1022; *Dartmouth v. Woodward,* 674, 659–62, 693; Marx, *Capital, Vol. 3*, 756.

11. Barker, "Corporation and the Tribe," 251, 253; Johnson and Graham's Lessee v. William M'Intosh, 21 U.S. 543, 572–74 (1923); Cheryl I. Harris, "Whiteness as Property," *Harvard Law Review* 106, no. 8 (1993): 1714. "... credit secured by land required land appropriation, and made more land appropriation possible": Park, "Money, Mortgages," 1014.

12. *Johnson v. M'Intosh*, 580, 586–87, 603.

13. The quote is from Margaret A. Burnham, "An Impossible Marriage: Slave Law and Family Law," *Law and Inequality* 5 (1987): 216. See also Burnham, "Impossible Marriage," 189, 216; "The sliding scale of political terminology along which no-man's land, or hinterland, passes into some kind of definite protectorate is often applied so as to conceal the process": Hobson, *Imperialism,* 15; A. Leon Higginbotham, Jr. and Barbara K. Kopytoff, "Property First, Humanity Second: The Recognition of the Slave's Human Nature in Virginia Civil Law," *Ohio State Law Journal* 50 (1989): 512; Andrew Fitzmaurice, "The Genealogy of Terra Nullius," *Australian Historical Studies* 38, no. 129 (2007): 1–15; Audra Simpson, "Captivating Eunice: Membership, Colonialism, and Gendered Citizenships of Grief," *Wicazo Sa Review* 24, no. 2 (2009): 119; Orlando Betancour, *The Matter of Empire: Metaphysics and Mining in Colonial Peru* (Pittsburgh: University of Pittsburgh Press, 2017), 46–57; Harris, "Finding Sojourner's Truth," 321, 328–30, 332, 338–39, 350–53; Dewey, "Corporate Legal Personality," 656.

14. Nicholas Mirzoeff, "The Sea and the Land: Biopower and Visuality from Slavery to Katrina," *Culture, Theory and Critique* 50, nos. 2–3 (2009): 292; Benjamin Straumann, "The *Corpus iuris* as a Source of Law between Sovereigns in Alberico Gentili's Thought," in *The Roman Foundations of the Law of Nations: Alberico Gentili and the Justice of Empire,* ed. Benedict Kingsbury and Benjamin Straumann (New York: Oxford University Press, 2010), 114; Colin Dayan, *The Law Is a White Dog: How Legal Rituals Make and Unmake Persons* (Princeton, NJ: Princeton University Press, 2011), 34–35, 140, 147–48, 150–51, 155; Harris, "Finding Sojourner's Truth," 316, 321–22; Higginbotham and Kopytoff, "Property First, Humanity Second," 514, 538.

15. Thanks to K-Sue Park for this insight.

16. Ireland, Grigg-Spall, and Kelly, "Conceptual Foundations," 152–54; Dayan, *Law Is a White Dog*, 148; Harris, "Finding Sojourner's Truth," 334, 336.

17. Samuel Worcester v. State of Georgia, 31 U.S. 515, 544–45 (1832); *Johnson v. M'Intosh*, 552; Shockey, "'Invidious' American Indian Tribal Sovereignty," 281; Ireland, Grigg-Spall, and Kelly, "Conceptual Foundations," 158. "... our increased military and naval expenditure during recent years may be regarded primarily as insurance premiums for protection of existing colonial markets and current outlay on new markets": Hobson, *Imperialism*, 64.

18. An Act to Provide a National Currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof: 37th Cong., Sess. III, Chs. 56, 58, 1863, pp. 665, 666, 679. Gerald Berk, *Alternative Tracks: The Constitution of American Industrial Order, 1865–1917* (Baltimore: Johns Hopkins University Press, 1994), 32; Paddy Ireland, "Capitalism without the Capitalist: The Joint Stock Company Share and the Emergence of the Modern Doctrine of Separate Corporate Personality," *Legal History* 17, no. 1 (April 1996): 63–67; John James and David Weiman, "The National Banking Acts and the Transformation of New York City Banking during the Civil War Era," *Journal of Economic History* 71, no. 2 (June 2011): 338–62; Samuel Decanio, *Democracy and the Origins of the American Regulatory State* (New Haven, CT: Yale University Press, 2015), 41, 44–47; Manu Karuka [as Manu Vimalassery], "Fugitive Decolonization," *Theory & Event* 19, no. 4 (2016); Ireland, Grigg-Spall, and Kelly, "Conceptual Foundations," 158–59; Roy, *Socializing Capital,* 116–17, 130–31. For the relationships between the development of banking and a bond market, and the ability to fight wars against Indigenous nations, see Adam Waterman, *The Corpse in the Kitchen: History, Necropolitics, and the Afterlives of the Black Hawk War* (Duke University Press, forthcoming), chap. 2.

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Society at the End of Slavery (New York: Cambridge University Press, 2010); Sarah Haley, *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity* (Chapel Hill: University of North Carolina Press, 2016), 12–14, 67, 157; Clyde Woods, *Development Arrested: The Blues and Plantation Power in the Mississippi Delta* (New York: Verso, 2017), chaps. 4–6; Clyde Woods, *Development Drowned and Reborn: The Blues and Bourbon Restoration in Post-Katrina New Orleans,* ed. Jordan T. Camp and Laura Pulido (Athens: University of Georgia Press, 2017), 56–76; "Those who believed themselves the natural heirs to the racial privileges once claimed by slaveholders": Robinson, *Forgeries of Memory,* 153, 184–88; Dayan, *Law Is a White Dog,* 60; Ely, *Railroads and American Law,* 67–68; Tiedeman, *Limitations of Police Power,* 100–101.

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33. Santa Clara County v. Southern Pacific Railroad Company, 118 U.S. 394 (1886); Martin Sklar, *The Corporate Reconstruction of American Capitalism, 1890–1916: The Market, the Law, and Politics* (New York: Cambridge University Press, 1988), 49–51; Du Bois, *Black Reconstruction,* 691; Roy, *Socializing Capital,* 83; Barker, "Corporation and the Tribe," 262.

34. Stuart Hall, "Rethinking the Base and Superstructure," in Stuart Hall, *Cultural Studies 1983: A Theoretical History* (Durham, NC: Duke University Press, 2016); *Santa Clara v. Southern Pacific,* 123–25; Roy, *Socializing Capital,* 3–4. On the Trade and Intercourse Acts, see Barker, "Corporation and the Tribe," 248–49; Ireland, Grigg-Spall, and Kelly, "Conceptual Foundations," 150; Barkan, *Corporate Sovereignty,* 32, 68–70.

35. Richard D. Stone, *The Interstate Commerce Commission and the Railroad Industry: A History of Regulatory Policy* (New York: Praeger, 1991); Berk, *Alternative Tracks,* 7.

36. Bonita Lawrence, "Gender, Race, and the Regulation of Native Identity in Canada and the United States: An Overview," *Hypatia* 18, no. 2 (2003): 24; Rose Stremlau, *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation* (Chapel Hill: University of North Carolina Press, 2011), chaps. 4, 5; Barker, "Corporation and the Tribe," 243, 247, 251–52, 256, 258–60; Ely, *Railroads and American Law,* 149.

37. Christopher Grandy, *New Jersey and the Fiscal Origins of Modern American Corporation Law* (New York: Garland, 1993); Horwitz, "*Santa Clara* Revisited," 186–87, 195; Thomas W. Joo, "Yick Wo Revisited: Nonblack Nonwhites and Fourteenth Amendment History," *University of Illinois Law Review* (2008): 1428 (online).

38. While credit was productive for shareholders, K-Sue Park has tracked a long history of the destructive use of credit against Indigenous and other nonwhite communities, from the earliest period of colonization in North America; see Park, "Money, Mortgages." Credit and share-wages served to limit the liability of planters after emancipation. Gerald David Jaynes, *Branches without Roots: Genesis of the Black Working Class in the American South, 1862–1882* (New York: Oxford University Press, 1986), chap. 9; Paula J. Giddings, *Ida, A Sword among Lions: Ida B. Wells and the Campaign against Lynching* (New York: Amistad, 2008), 371; Plessy v. Ferguson, 163 U.S. 537, 549 (1896); Roy, *Socializing Capital*, 87, 158, 160, 163–64; Barker, "Corporation and the Tribe," 256; Dayan, *Law Is a White Dog*, 47.

39. *Plessy v. Ferguson*, 543–44, 549–50, 561–62. Louisiana segregation laws overturned two decades of nondiscrimination laws. A. Leon Higginbotham, Jr., *Shades of Freedom: Racial Politics and Presumptions of the American Legal Process* (New York: Oxford University Press, 1996), 109–11; Barbara Young Welke, *Recasting American Liberty: Gender, Race, Law and the Railroad Revolution, 1865–1920* (New York: Cambridge University Press, 2001), 314–16; Hoang Gia Phang, "'A Race So Different': Chinese Exclusion, The Slaughterhouse Cases, and Plessy v. Ferguson," *Labor History* 45, no. 2 (2004); Blair L. M. Kelley, *Right to Ride: Streetcar Boycotts and African American Citizenship in the Era of Plessy v. Ferguson* (Chapel Hill: University of North Carolina Press, 2010).

40. "To be a man meant to participate, separated from the actual experience, in a genocide": Michael Paul Rogin, "Liberal Society and the Indian Question," *Politics and Society* 1 (May 1971): 312. "An Act to Establish a Uniform System of Bankruptcy throughout the United States," U.S. 55th Cong., Sess. 2, Chs. 540, 541; Berk, *Alternative Tracks*, 58, 110; Horwitz, "*Santa Clara* Revisited," 181, 183; Baran and Sweezy, *Monopoly Capital*, 67. "To a larger extent every year Great Britain has been becoming a nation living upon tribute from abroad, and the classes who enjoy this tribute have had an ever-increasing incentive to employ the public policy, the public purse, and the public force to extend the field of their private investments, and to safeguard and improve their existing investments. . . . What was true of Great Britain was likewise true of France, Germany, the United States, and of all the countries in which modern capitalism had placed a large surplus savings in the hands of a plutocracy or of a thrifty middle class": Hobson, *Imperialism*, 53–54.

CHAPTER NINE

1. Blackhawk, 9; Wolfe, *Traces of History*, 38; Du Bois, *Black Reconstruction in America*, 211–12; Nikhil Pal Singh, *Race and America's Long War* (Oakland: University of California Press, 2017), 26; Dunbar-Ortiz, *An Indigenous Peoples' History*, 6; Jodi A. Byrd, "Follow the Typical Signs: Settler Sovereignty and Its Discontents," *Settler Colonial Studies* 4, no. 2 (2014): 153.

2. Frederick Jackson Turner, *The Frontier in American History* (Tucson: University of Arizona Press, 1997), 32; Goeman, *Mark My Words*, 14; Charles S. Maier, *Once within Borders: Territories of Power, Wealth, and Belonging since 1500* (Cambridge, MA: Harvard University Press, 2016), 229. Cedric Robinson wrote that colonialism in America required "the Savage" as a rationale, and that English colonialism drew upon a traveling notion of savagery that was rooted in the colonization of Ireland. While I was unable to incorporate it into this book, the historicization of the transcontinental railroad through the lens of imperialism should also entail a reckoning of Irish railroad workers through the long history of colonialism in Ireland, and not primarily through U.S. nationalism and amalgamated whiteness. Robinson, *Black Marxism*, 186–87. On the savage / civilized binary as a logic of counterinsurgency warfare, see Khalili, 43.

3. Turner, *Frontier in American History*, 31.

4. Ibid., 59. I have argued that continental imperialism, in North America, was actually achieved through, and preceded by, overseas imperialism. California, that is, was overseas, Pacific territory of the United States, before it was part of the continental territory of the U.S. In a related way, we might consider visions of the southward expansion of slavery, as a different conception of continental expansion, occurring across seas. See Johnson, *River of Dark Dreams;* Moon-Ho Jung, "Beyond Loyalties: Reflections on Regional and National Divides in the Study of Race," *Western Historical Quarterly* 34, no. 3 (2012): 291; J. Kēhaulani Kauanui, "Imperial Ocean: The Pacific as a Critical Site for American Studies," *American Quarterly* 67, no. 3 (2015): 625–36; Peter Hudson, *Banking and Empire: How Wall Street Colonized the Caribbean* (Chicago: University of Chicago Press, 2017). The concept of continental imperialism could be understood in productive interrelationship with concepts such as archipelagic imperialism. Lanny Thompson, *Imperial Archipelago: Representation and Rule in the Insular Territories under U.S. Dominion after 1898* (Honolulu: University of Hawai'i Press, 2010); Yolanda Martínez San-Miguel, *Coloniality of Diasporas: Rethinking Intra-Colonial Migrations in a Pan-Caribbean Context* (New York: Palgrave Macmillan, 2014); Setsu Shigematsu and Keith L. Camacho, eds., *Militarized Currents: Toward a Decolonized Future in Asia and the Pacific* (Minneapolis: University of Minnesota Press, 2010); Brian Russell Roberts and Michelle Ann Stephens, eds., *Archipelagic American Studies* (Durham, NC: Duke University Press, 2017); Alyosha Goldstein, "Promises Are Over: Puerto Rico and the Ends of Decolonization," *Theory and Event* 19, no. 4 (2016).

5. Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin: University of Texas Press, 1998); Heidi Kiiwetinepinesiik Stark, "Criminal Empire: The Making of the Savage in a Lawless Land," *Theory & Event* 19, no. 4 (2016); Audra Simpson, "The Ruse of Consent and the Anatomy of 'Refusal': Cases from Indigenous North America and Australia," *Postcolonial Studies* 20, no. 1 (2017): 11; Turner, *Frontier in American History*, 60. On Turner's melancholy, see also Reddy, *Freedom with Violence*, 63; Jodi A. Byrd, "Beast of America: Sovereignty and the Wildness of Objects," *South Atlantic Quarterly* 117, no. 3 (July 2018): 608–9.

6. W. E. B. Du Bois, "The African Roots of War," *Atlantic Monthly*, May 1915, 30, 34; Manu Vimalassery, Juliana Hu Pegues, and Alyosha Goldstein, "Introduction: