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Nayan Shah

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## Between “Oriental Depravity” and “Natural Degenerates”: Spatial Borderlands and the Making of Ordinary Americans

*Nayan Shah*

In October 1926, Police Chief A. W. Reynolds raided a ranch four miles northeast of Porterville, California, in the foothills of the Sierra Mountains, and arrested forty-eight-year-old ranch hand Arjan Singh for attempting the “crime against nature” on a seventeen-year-old white “local boy,” Alexander Quinn. The local newspaper reported Singh’s arrest as a “statutory crime,” but Alexander Quinn was hardly shielded from police suspicions. The Porterville police arrested Quinn and held him in jail on the charge of vagrancy pending a hearing in juvenile court. Although Singh declared that he would fight the sodomy charge, at the trial he pled guilty and was sentenced to five years in prison.<sup>1</sup>

Arjan Singh and Alexander Quinn were among thousands of seasonal field workers—foreign migrants, tramps, and casual local laborers—engaged in the yearlong cycle of planting, pruning, and harvesting up and down the Pacific Coast in the early twentieth century.<sup>2</sup> This narrative culled from Tulare County Superior Court records could be considered predictable. Arjan Singh’s arrest for sodomy fit a pattern of intergenerational, working-class, same-sex relations that early-twentieth-century sociologists, sexologists, and labor economists have conventionally described as situational “homosexuality” common in “mining districts, lumber camps, wheat fields, and fruit ranches.” Sodomy was considered a prevailing immoral practice “wherever a large number of men [were] grouped together apart from women.”<sup>3</sup> The prosecutor, Assistant District Attorney W. C. Haight, blamed the crimes on socializing between “low down whites and Hindus of the same type.” Haight’s ability to explain the crimes did not diminish his outrage at Singh’s “disgusting Oriental depravity” or temper his ambivalence toward Quinn’s behavior. Despite the newspaper’s invocation of statutory crime, the prosecutor appeared reluctant to treat Quinn as an innocent victim.<sup>4</sup> What made the Porterville case simultaneously predictable and outrageous?

Like many other prosecutors and police, Haight anticipated immorality and criminality in the social interactions between white adolescent males and Asian migrants. Suspicions had turned the spatial locations of contact—the streets, alleys, boardinghouses, labor camps, and ranches where migrant workers congregated—into borderland spaces characterized by disorder, conflict, and murky social and sexual ties between males. In these borderland spaces of migrant life, the police suspicion of illicit and immoral activity remade transient domestic and leisure spaces into sites of public scrutiny. Two years prior to the sodomy arrest, Singh had been convicted of liquor possession and at the time was reputed for “making his house attractive to depraved boys by having liquor on hand.”<sup>5</sup> At the trial, Haight pointedly established the illicit reputation of Singh’s house and demonstrated the legal ramifications of de-privatizing a residence. Charging Quinn with vagrancy was a means to punish his association with an allegedly immoral foreign man and his presence in a transient’s house that was defined as a disreputable and illicit resort. Policing by the liberal state strictly defined the boundaries of public and private in society. However, in borderland migrant spaces the feverish redefining of the borders of the public, the semipublic, and the private kept the boundaries unclear and unsettled.

The surveillance of spatial borderlands brought another set of ambiguous identities into play: the containment of normative American masculinity from the threats of other interloper masculinities, cast as foreign and degenerate. To this end, prosecutors and judges in the early twentieth century created racialized and sexualized typologies of masculinity to police the relationships of roaming male youth and foreign migrants. Their immediate purpose was to identify the dangers posed to male youth, but the effect was to ensure a future for American normative masculinity.<sup>6</sup> Yet the sexual ambiguity of male youth confounded the jurists, forcing them to consider whether sodomy was an act of violation or invitation, to judge whether a youth was innocent, criminal, or delinquent. The protection of a specific male victim, however, was secondary to the protection of society and civilization and the affirmation of American normative masculinity. As David Bell has argued, the emphasis on public victimization “often deployed in state and legal discourses” on sodomy normalizes the common good and recodes all suspect intimacies as spectacles of public discipline.<sup>7</sup> In the Porterville case, Haight hailed Singh’s imprisonment as the removal of a “menace to society” and a “blessing to the community.”<sup>8</sup> In political and cultural discourse, Asian men were generally perceived as the importers of “unnatural” sexual practices and pernicious morality.<sup>9</sup> The putative threat posed by the social practices of “amoral” alien migrants, domestic

transients, and male adolescents thus simultaneously unsettled and shored up the constitution of normal American masculinity.

Very little of the texture of these tensions bubbles to the surface in the discreet and pithy newspaper accounts of the Porterville case and similar California cases. The court records, however, pulsate with the interests, suspicions, and imperatives of policing, and the corresponding production and regulation of borderland spaces and identities and the threats to normative American masculinity. This article examines how a series of California court cases in the 1910s and 1920s recast the boundaries of American masculinity through tackling the ambiguities of adolescent delinquency and deploying the categories of normality, degeneracy, and natural sex. Understanding how those spaces and identities were constituted and policed necessitates an exploration of how and why the legal statutes—sodomy, statutory rape, and vagrancy laws—were reinterpreted and combined in this era to both explain and punish the dangers of male migrant social and sexual relations. The combination of sodomy, statutory rape, and vagrancy in these cases has particular analytical significance since most historical studies of law and society in the late-nineteenth- and early-twentieth-century United States often isolate the legal prosecution of vagrancy, sodomy, and statutory rape protections as separate problems and as the regulation of distinctive social bodies.<sup>10</sup>

Correlating American national identity with sexual normalcy was a new development of the twentieth century. The categories of deviance and normality and the new definitions of sexual identity shaped the policing of male adolescents' relationships with both external and internal nomadic subjects—the foreigners and transients who were the subject of vagrancy and sodomy prosecution. Policing and judicial reasoning converted these social dangers into the categories of delinquents, vagrants, and degenerates and developed heightened surveillance of the spatial borderlands of interaction. The judicial process revealed how unsettled the ideas of masculinity, adolescence, and normative sexual behavior were. Case by case, the legal archive underlined racialized sexualities that endangered the state as well as national masculinity. Even as the prosecutors, judges, and legal commentators strove in each individual case to put borders around normal masculinity, the process and dilemmas of adjudicating the cases repeatedly subverted any hope of fixed borders.

### **Sodomy, Statutory Protections, and the Problem of Consent**

Until 1976, California law defined the felony charge of sodomy as a "crime against nature" and explicitly prohibited all genital-anal penetration. In sod-

omy prosecutions in California the penetrator was charged with the “crime against nature” but the status of the “penetrated” was ambiguous. Sex acts between females and males were occasionally punished under sodomy statutes, but historians have noted that since the 1880s in the United States, the prosecution of sodomy mostly involved two males, usually an adult male and a male youth or child.<sup>11</sup> At the turn of the nineteenth century, the greater police and prosecutorial interest in punishing adult male sexual conduct that involved youth paralleled the rise of legislation that created statutory protections for females with regard to rape.

In the last decades of the nineteenth century and the first decades of the twentieth century, U.S. society was undergoing a cataclysmic shift in social consciousness and legal protections for girls and their sexual relations with adult men. Against the backdrop of prolific popular cultural and political representations of child prostitution, female abduction, child marriage, and white slavery, Progressive-era voluntary organizations and municipal government developed a web of social regulatory programs from juvenile courts to homes for unwed mothers to protect and discipline female youth.<sup>12</sup> Jurisdictions in California were at the vanguard of policing and protecting adolescents, and the courts became a key arena for disciplining and rehabilitating youth.<sup>13</sup> State legislatures created statutory rape protections for girls and rapidly revised age-of-consent standards. In the late nineteenth century, in tandem with trends nationwide, the California legislature had increased the age of consent for sexual intercourse for females from the age of ten in 1872 to fourteen in 1883 and sixteen in 1897. The legislature was deadlocked in lifting the age to eighteen until 1913, the year after women exercised suffrage in the state.<sup>14</sup> Despite this highly publicized movement to regulate the sexual activity of young females and their male partners, the California legislators were remarkably silent on similar age standards in sodomy cases. Judges and district attorneys stepped into the breach and formulated legal rules about how to try charges of, and who to protect in cases of, the “crime against nature,” often borrowing from more-developed case law on female rape.<sup>15</sup>

Statutory rape protections were supposed to shield girls from interrogation about sexual history, conduct, and comportment. These protections were unevenly enforced, often resulting in greater scrutiny and interrogation of girls and young women. In practice, underage girls were often expected to explain their conduct, behavior, dress, and social history in order to prove their innocence. Defense attorneys, social workers, and even judges often pressed underage females to explain whether the particular sex act and sexual partner was invited, consensual, or forced. Yet raising the age of consent thresholds and

creating statutory rape protections for girls carried an implicit understanding that both female and male adolescents possessed sexual maturity and the physical capacity for sexual activity that outstripped their social maturity and moral capacity to make decisions about sexual partners and sexual acts. Underwriting the new protections that defined the age boundary for consensual sex between males and females was a conventional understanding of male aggression and female vulnerability. It was understood that female youth could be forced, persuaded, or duped into sexual relations with male adults and believed that the law must intervene to protect the girl before she would be capable of consent.<sup>16</sup>

In an era when cultural and legal borders of age and legitimate sexual participation for females were being fixed in statute, however, there existed striking ambiguity and uncertainty about how to judge the vulnerability of male youth. In the early-twentieth-century California state courts, the issue of how to adjudicate the innocence or culpability of male adolescents in sodomy cases emerged repeatedly. A 1912 California State Supreme Court decision in the appeal of *People v. Dong Pok Yip* became the ruling precedent for applying statutory protections for male youth and was frequently and authoritatively cited in subsequent sodomy cases.<sup>17</sup> The case involved a Chinese man, Dong Pok Yip, who befriended nine-year-old Albert Hondeville at the Antioch wharf and taught him to fish. Later in the afternoon, Rodrigues, a Portuguese American bookkeeper with offices overlooking the wharf, observed the two "walking hand-in-hand." Suspicious, Rodrigues followed them behind the oil tanks to a brush of willows, where he described them as "stooping . . . with the boy in front and the Chinaman" behind him with his "hands on the sides of the boy's waist." Although he could not testify to penetration of Albert, Rodrigues claimed to see the back of the boy's overalls hung down and that the "Chinaman's" trousers were unbuttoned in front.<sup>18</sup>

At the trial, the eyewitness Rodrigues explained that Dong Pok Yip was "trying to use the boy as a female."<sup>19</sup> This claim gendered the incident into a "crime against nature" by transforming the boy into a passive object that could be sexually acted upon and penetrated. By rendering the boy as a feminized victim, attorneys and judges could analogize the sexual victim status of underage females to the legal experience of male youth. In the appeal to the California State Supreme Court, State Attorney General U. S. Webb elaborated on the analogy of statutory assault. Webb argued that the boy was "overpowered," and that the circumstances were similar to those where a "schoolteacher takes indecent liberties with a female pupil" or a man lays "hold of" a woman and kisses "her against her will."<sup>20</sup> The supreme court agreed and ruled that

“consent” must be distinguished from “submission,” despite the perception that the “boy was ignorantly indifferent and passive in the hands of the defendant.” They argued that a “child of tender years or retarded mental development . . . in the hands of a strong man might be easily overawed into submitting without actually consenting.”<sup>21</sup>

The statutory age standards applied from the law on female rape, however, had to contend with the legal category of a criminal accomplice. California statute in 1911 specified that in order to be charged as a criminal accomplice one must be fourteen or above. Female age of consent at the time was sixteen and was raised two years later to eighteen. In sodomy prosecutions, the criminal accomplice became the category for the males who engaged in consensual sex. In 1923, the California Supreme Court affirmed in *People v. Carter Singh* that the age standard of an accomplice created a different baseline of statutory protections for male youth—“a child under the age of fourteen years is presumed incapable of committing a crime and cannot therefore be deemed an accomplice.”<sup>22</sup>

Protecting a “child of tender years” was a far clearer proposition, however, than confronting the dynamic of a majority of sodomy cases that involved male adults with male youth between the ages of fourteen and twenty-one. These youth were among a new category—“adolescence”—that emerged from social reform projects and social science knowledge and marked a paradigm shift from conceptualizing youth as “incomplete adults” to a distinctive and recognized intermediate phase of human development.<sup>23</sup> The emergence of scientific and social reformer interest in adolescence became linked to concerns about this period’s social and cultural transformations. Changing social mores, the rise of commercialized entertainment in both large cities and towns, shifting patterns of work outside the household for youth and young adults, both male and female, and the tremendous internal migration and immigration of the late nineteenth and early twentieth century all fostered perceptions of the collapse of traditional family and social structures. Social reformers and commentators expressed fears that the widespread social and economic dislocations and social mobility created the conditions for sexual corruption and immorality. Youth were vulnerable to perils of premature sexual activity that could have devastating health and social consequences for individuals as well as spell ruin for society. The perceived vulnerability and needs of adolescents fueled the development of municipal juvenile courts, truancy officers, social workers, psychologists, and counseling programs in the early twentieth century.<sup>24</sup> These programs were charged with protecting the vulnerability of boys and girls from the sexual and moral dangers posed by urban vice and the immigrant male.

Above this age threshold of fourteen, defense and prosecution attorneys struggled over how an individual could be designated an accomplice. The exchange of money or gifts for a sexual act constituted the most decisive material evidence of consent. The problem of consensual sodomy emerged in cases of male youth between the ages of fourteen and twenty-one implicated in activities that raised concerns of prostitution and hustling. In the early twentieth century, male street hustling was identified as a social problem for urban adolescent delinquents. Physicians, psychologists, sociologists, social workers, and sexologists studied the nature of individual pathology and social deviance that led male youth to prostitute their bodies to men. Encounters and transactions between men and male youth were thus seen as part of an ensemble of criminal and sexual activity, on a sliding scale from petty theft, truancy, loitering, intoxication, drug addiction, and socializing with female prostitutes.<sup>25</sup>

The street-level transactions of migrant males allowed the law to define adolescent males as criminal accomplices to adult men. In one incident, on Friday night, February 10, 1918, two police officers were patrolling downtown Sacramento. The officers observed Stanley Kurnick, a "nineteen year old boy of Austrian descent," in the company of a forty-year-old "Hindu," Jamil Singh; both were ranch hands who found temporary work in the surrounding Sacramento and San Joaquin valleys. Their conversation on a street corner led Jamil to offer Stanley seventy-five cents for a meal and to share his room at the Colusa Rooming House. Later that night the police followed a lead from a street informer to their room. Officer Parker "looked through the keyhole and saw a boy lying face downward on the bed with his clothes partly off" and the "Hindu," also with his clothes partly off, lying on top of the boy, "going through the motions" of a man "having sexual intercourse." The officers broke open the door and arrested both men.<sup>26</sup>

Officer Parker's improbable strategy of looking through the "keyhole" was emblematic of sodomy arrests in which the police officer's account produced the third-party corroboration of the accomplice's testimony that was critical to conviction. This characteristic voyeurism, with its framing of anal intercourse, made sodomy a staged, witnessed, and profoundly public act. Sodomy was of such implicit public interest that at the trial neither the prosecution nor the defense attorneys compelled the police officers to explain their interest, justify their search without a warrant, or disclose their source of information. The protection of public morality justified police intervention into the "private" rooms of boardinghouses. In 1918 Sacramento, police surveillance of boardinghouses, brothels, pubs, and gambling houses had increased sharply



under federal and public pressure to “clean up” the town in preparation for the construction of a military base. The ostensible concerns about the impact of female prostitution, venereal disease infection, and immoral gambling on male servicemen also drew more police officers into the downtown district and intensified their scrutiny of the interaction of foreign migrants and male youth. In such an atmosphere of intensified moral policing, boardinghouses became recalibrated as “semipublic” spaces along with an array of public leisure sites.

This scrutiny, however, produced different public exposure and punishment for the males involved. When Judge Glenn sentenced Jamil Singh to seven years in San Quentin, he wrestled with how to interpret Stanley Kurnick’s behavior and his legal culpability. Glenn offered his opinion that Singh was “probably not any worse than the young man,” and pronounced both “equally guilty.” Yet he offered defenses for Kurnick’s conduct—“he is a young man” and “probably of low mentality.”<sup>27</sup> The prosecutors had charged Kurnick as “an accessory to the carnal act of the Hindu” and sent his case to juvenile court. From the prosecution’s perspective, the accomplice charge signaled a perception of the delinquent youth as having unformed ethics, yet also the potential for reform that would be enhanced by the confidentiality of juvenile legal proceedings. Judge Glenn’s assessment of Kurnick’s culpability had much to do with his very suspect association with a foreign man and the heightened suspicion of illicit activity.

The credibility of the “accomplice” hinged on the circumstances and the social status of the adult defendant of the alleged crime. In September 1913, a San Francisco case involving circumstances that transpired in a middle-class home had a very different result upon appeal. In the San Francisco Superior Court, Samuel Robbins, a fifty-six-year-old white bookkeeper, was convicted by the reluctant testimony of sixteen-year-old Sidney, who claimed that Robbins attempted to penetrate him while in a locked bathroom in his house but was interrupted by the housekeeper, Mrs. Nute, trying to open the door. In the appeal to the California Supreme Court, however, the majority of justices argued that Mrs. Nute’s testimony, though casting suspicious light on the defendant, did not sufficiently corroborate Sidney’s accusation.<sup>28</sup> In overturning Robbins’s conviction, the judges gave no credence to Sidney’s explanation of trauma and his narration of the assault. The decision implicitly characterized Sidney as an unreliable accomplice and the producer of a false accusation. The judges decided not to heed Mrs. Nute’s testimony, because she was a “prying” servant woman who had not expressly witnessed the actual crime.

Instead, the supreme court justices worried about Samuel Robbins's reputation, fearing that "friendship of a middle aged man for the lad" could be misinterpreted as criminal intent or activity. They argued that "in these days of the 'big brother movement' thousands of men throughout the country are systematically cultivating the friendship of boys, to the end that the influence of mature thought and association with men may aid in the development of the best qualities of the children."<sup>29</sup> The judicial intervention focused upon a key middle-class reform strategy for taming delinquent youth. Middle-class reformers advocated the sublimation of sexual energies into physical fitness, organized sports, and scouting, which were expected to impart proper socialization through adult mentorship and gender training into responsible and healthy adults.<sup>30</sup> Ironically, the same activities produced a homosocial environment and possibilities for intimate relations between males. The judges' decision, however, revealed the anxiety that men of middle-class privilege would be considered suspect in their association with boys and young men. The judges maintained that middle-class white men could impart moral development and should, therefore, not "be convicted of degrading crimes upon mere suspicion plus the story of an accomplice."<sup>31</sup> The judges accepted the defense's interpretation that it was "natural" that after a game of tennis the man and boy washed hands together in the bathroom and locked the door after themselves as a "simple precaution . . . to prevent" any interruption from cleansing their bodies.<sup>32</sup> Such homosocial activities between white men and white boys could be perceived as natural, moral, and pedagogically appropriate.

The difference between "natural" intergenerational male friendship and "unnatural" sexual predation thus depended upon the reputation of the adult. The defense attorney's use of "natural" homosociality and modesty from female view reinforced Robbins's credibility. The judges refused the inference that Robbins may have taken advantage of that familiarity and instead let Sidney bear the trauma of sexual predation bereft of state protection. Branding Sidney an unreliable accomplice was all the more startling because Sidney had no history of juvenile delinquency or deceit. Robbins's defense succeeded because his white racial identity and respectable middle-class status overrode suspicions and accusation of sexual assault.

In contrast, the social associations of Asian migrant men with "American" or provisionally "American" youth were perceived as inherently dangerous and catalyzed suspicions of sexual immorality. The same week of Jamil Singh's arrest in downtown Sacramento, police surveillance led to the arrest of another South Asian man for sodomy. On February 13, 1918, eighteen-year-old

Hector McInnes, a Native American who was originally from Truckee in the Sierra Mountains, befriended Tara Singh on the streets of downtown Sacramento. Tara gave Hector fifty cents for a meal and to rent a room at a lodging house on L Street run by a Japanese innkeeper, Koro Shigo. Tara followed Hector and was assigned to the adjoining room. In the early morning hours of Friday, February 15, police officers Malone and Weisler went to Shigo's boarding house pursuing anonymous leads "on the streets" that there "was a boy up there, with a Hindu." The officers found Hector naked in bed alone, and the doors between the adjoining rooms locked.<sup>33</sup> Under pressure from the police, Hector later testified in court that Tara came into his room at nine o'clock that night; Hector had taken off his pants, left his shirt on, and was ready to sleep. Hector claimed that Tara climbed into bed, began to "feel around" his body and then lay on top of Hector, attempting to penetrate him. Despite Tara Singh's denial that he had "never saw [Hector] that night" he was convicted of attempted sodomy.<sup>34</sup> In this case, the circumstantial evidence of the interracial association between an Asian migrant man and a male youth in public and their retreat to adjoining rented rooms overwhelmed any concerns that Hector McInnes's testimony was uncorroborated. In the arraignment hearing, Judge Henderson acknowledged that "the difficulty of these cases lies in the character of the boys who allow themselves to be used," making "their testimony not worthy of belief."<sup>35</sup> These doubts of credibility did little to dissuade the overwhelming suspicions of the dangers of migrant vagrancy that shaped police intervention and state prosecution.

### **Vagrancy, Nomadic Subjects, and Spatial Borderlands**

In the late nineteenth and early twentieth centuries, vagrancy laws became a general umbrella under which migrants and delinquents could be policed, disciplined, and criminalized. The demands of capitalist development created mobile populations, but politicians and moral reformers condemned the social dynamics of unsteady work and temporary housing that were generated in the wake of human mobility. A vagrant was a transient, lacking reliable work, home, or family. Idleness was alone considered a badge of immorality, but vagrancy encompassed a range of disreputable behavior that could be criminalized. In nineteenth-century legal statutes, the crime of vagrancy explicitly identified the unproductive, disreputable, and sexualized character of its policing targets. In 1891 the California legislature amended the 1872 vagrancy statute that criminalized being an "idle or dissolute person, who wanders about the streets at late or unusual hours of the night," with characterization

of a "lewd or dissolute person who lives about houses of ill-fame."<sup>36</sup> Vagrancy was thus not just temporary misfortune, unemployment, and poverty but was defined as an aversion to productiveness, an unwillingness to rehabilitate, and a failure of self-discipline. Vagrants were characterized as "lewd or dissolute persons" who were prone to habits of immorality—intoxication, prostitution, gambling, sodomy, or cross-dressing. In California, the shift from an explicit condemnation of prostitution to a broad policing of sex occurred when the vagrancy law was simplified in 1903 to criminalizing an "idle, lewd, or dissolute person."<sup>37</sup>

U.S. legal and historical studies have analyzed the use of vagrancy laws in three ways. The first sees it as a device of labor regulation that has been used since English common law and revived in the nineteenth and early twentieth centuries to force black freed people in the South into wage work and to stifle European, Asian, and Mexican immigrants as well as white native-born workers from labor organization, protest, and bargaining in the North, Midwest, and West.<sup>38</sup> The second arena of scholarly interest recognizes that vagrancy law criminalizes "having a certain personal condition or being a person of specified character" rather than criminalizing a specific act. Police surveillance and arrests could be made on reputation and general suspicion of future criminal activity.<sup>39</sup> The third specifically ties "vagrancy" with sexual and moral charges. The vagrancy complaint could combine with or substitute for specific charges of pimping, sodomy, sex perversion, lewdness, intoxication, indecent assault, or solicitation. Nationwide in the twentieth century, police and justice courts combined these policing targets into a generalized "vag lewd" charge. It was a notoriously vague and broadly applied misdemeanor charge that police employed in sweeps of parks, bars, clubs, toilets, and streets and "became the most deployed criminal sanction against same-sex intimacy" according to legal scholar William Eskridge.<sup>40</sup>

The police surveillance for potential vagrancy also produced scrutiny about the activities and movements of migrants and created the atmosphere to pursue suspicions of interracial social contact and, potentially, the felony charge of sodomy. Male migrant sociability thrived in the nodal hubs of transportation and the urban spaces where transients congregated between jobs. Vagrancy policing spatially mapped spaces of presumed safety and danger and recast social contact in terms of morality and immorality. Encounters between males occurred in the border spaces of streets, alleys, parks, and squares. Police walked the streets on their neighborhood beats, observing public activity and the social relations of the street. The police regulation layered public social spaces of everyday social encounter with nefarious and illicit implications. It

also remade the interior spaces of public accommodations—saloons, clubs, halls, hotels, and boardinghouses—into semipublic arenas in which police could intervene upon suspicion. The policing of potential criminal activity included the regulation of improper social and sexual activity, resulting in arrests of soliciting prostitution, public drunkenness, property crime, public disturbance, lewdness, and sodomy. The geography of the rapidly urbanizing town and city provided the settings and spaces for casual, fortuitous, and dangerous encounters between men and boys of different ethnicities, classes, and ages.

In California, vagrancy sweeps were a routine practice of police surveillance in the central valley towns. For instance, in Marysville in February 1928, two police officers on routine patrol after midnight noticed a car parked in a secluded spot about a block away from residences. Officer McAuliffe's suspicions were aroused when he saw a dark man asleep leaning against the passenger window who "looked like a Mexican." When the officers pulled the man out, they discovered a "young man [who] was lying in the seat with his head under the wheel, his pants . . . down to his knees, his union suit underwear split . . . open, his coat . . . turned up and his rectum . . . exposed"<sup>41</sup> What had begun as police curiosity on a routine patrol was thus amplified by racial suspicion. Apparently, the presence of a dark man in a parked car at night was enough cause for suspicion. Although Officer McAuliffe had initially mistaken Rola Singh for a "Mexican," the officer treated his initial confusion over racial identity as irrelevant. The police suspected either "Mexican" or "Hindu" men were typically migrant laborers, unlikely to own automobiles, and suspected vagrants. Racial suspicion quickly turned into a more serious police investigation when they discovered a white male partially undressed and unconscious in Singh's company. The police officers arrested both men and hauled them to the police station for observation. Later that day after two medical inspections, Rola Singh was charged with the "crime against nature."

During the trial and appeal, the perception of youth protected Harvey Carstenbrook, who had accosted Rola Singh on the sidewalk near the stage depot and offered him a ride in his car. Carstenbrook explained that he had parked the car because he was too drunk to drive and that they both passed out until they were roused by the police officers.<sup>42</sup> Throughout the trial, the attorneys referred to him as the "Carstenbrook boy," and the judge presumed statutory protections precisely because of Carstenbrook's unconsciousness and lack of memory of how his pants came undone when the police found him. Carstenbrook's social status as a member of a longtime local small business family may have enabled the statutory protections even though his age was documented as twenty-eight in other legal proceedings before the same court.<sup>43</sup>

In the end, Carstenbrook’s “boy” status shielded him from any further scrutiny and interrogation as a potential accomplice and he was released from jail without charges, while Rola Singh was convicted and sentenced to seven years imprisonment in San Quentin.

In all of these legal cases, in the recording of testimony from arrest, arraignment hearing, trial, sentencing hearing, and appeals, the police, prosecutors, and judges transmit their prejudices in revealing interpretations. The judges’ decisions at the various levels of court proceedings were a conduit of circulating knowledge of the particular dangers of vagrant migrants and predictions of nefarious interracial sexual encounters between migrant males and youth. During a week of sodomy arrests, an uncommonly blunt police court judge in Sacramento, Judge Henderson, remarked that “Sodom and Gomorrah, Long Beach, California, and other places famous in history as being the scene where was practiced the fornicating of man by man must have spewed some of their descendants upon the city of Sacramento, in the form of several Hindus who have found their sexual gratification in the anus of boys.”<sup>44</sup> Judge Henderson’s opinion was strongly influenced by the *Sacramento Bee*’s exposé of sex between men in Long Beach restrooms, parks, and homes that led to more than fifty arrests in November 1914.<sup>45</sup> Judge Henderson characterized Jamil Singh and Tara Singh, as two of “the many Hindus that frequent the lower part of town, most of whom are Sodomites.” Henderson was disturbed that the Native American male Hector had made himself a sort of “punk,” or male prostitute, “for denizens of the lower end of town, of the Hindu race.”<sup>46</sup> Hector’s Native American origins perhaps defined him more readily as a male street hustler. Unlike European immigrant Stanley, Hector did not receive prosecutorial defenses of his age or culpability.

Judge Henderson’s vision of “Hindu Sodomites,” delinquent European immigrant youth, and Native American “punks” translated the practices and identities of migrant men into an economy of male prostitution. His concerns focused on the spatial borderlands populated with nomadic subjects whose practices and transient association recast public business locations into vice-suspect semipublic spaces. Henderson’s language reterritorialized Sacramento’s “lower end of town” as a public site of sexual perversity that required police surveillance, incarceration of its “immoral inhabitants,” and protection for the middle-class and respectable families who might unwittingly travel into this vice district. Lower town Sacramento provided cultures of leisure, entertainment, and rest for transitory migrants. Its restaurants, saloons, bars, brothels, boardinghouses, hotels, streets, and alleys provided services for migrant men looking for work between harvest and planting cycles in the adjacent hinterlands.

In the court record and the testimony, gestures of financial assistance and offers of sharing accommodations between migrant males were recoded in law as illicit transactions that were flagged by police and prosecution as vagrancy, sodomy, and male prostitution. Yet, we can also reread in the cracks of this testimony a different story. Reinterpreting fragments from Jamil Singh's testimony at the sentencing hearing reveals an alternate rendering of intimacy and nomadic ethics in migrant social worlds. In the interstices of his responses, which were supposed to confirm his predisposition to criminality, Jamil Singh narrated a moral economy of duty that included financial support for his wife and family; avoidance, for the most part, of intoxicants and vices; and a willingness to work and to keep to his own people—"the Hindus."<sup>47</sup> He expressed incredulity that he was being convicted of a crime. Perhaps he believed that his reputation among his peers and performance of his duty shielded him from scrutiny. Perhaps he believed that his generosity in feeding and housing another worker was a reasonable exchange for physical intimacy. Jamil may have believed that Stanley invited and agreed to physical intimacy and that the police and courts were unreasonable in interfering. Maybe Jamil could not fathom that his interactions with Stanley were criminal. Did those actions that the authorities definitively labeled "unnatural sex" compute as "sexual" or "an assault" in the way that an attempt at physical intimacy with a female would certainly have? Jamil Singh's incredulity may have been a desperate attempt to defend himself and to entreat the judge's mercy, but it also contains within its narration shards of alternative ways of expressing his own reputation for responsibility and generosity to his family, his people, and to the working strangers he encountered.

Where Singh may have seen a moral social universe, Henderson saw a "mass of deviants" that had descended into Sacramento and created a district of immorality where they could satisfy "immoral" and "degenerate" urges. For Henderson, police, and prosecutors, the spatial concentration of male prostitution produced a sexual public for its surveillance and created boundaries of what social status and which actions the umbrella of privacy could protect. Irrespective of the efforts of migrant males to remove their intimate activities from public view, the very transience of migrant life cast all their activities outside the boundaries of domestic privacy. The norms of public morality offered valued public status and the shield of domestic privacy to married couples, but thwarted a similar pursuit of privacy for migrant males.<sup>48</sup>



## Normal Man and Natural Degenerate

Early-twentieth-century jurisprudence and legislative politics intensively criminalized a range of sexual acts, practices, and persons. By elaborating upon the illegitimacy of the "unnatural" practices of sodomy and the specific dangers of migrants and vagrants, the contours of "natural" and "normal" male sexuality were constructed. The defense of normal masculinity and sexuality emerged under the threat of alleged degeneracy. James Kerr, a prominent legal scholar who edited the compendium of the *Codes of California* in 1921, illustrated the intensity of the threat when he railed against contemporary judicial decisions that left open the possibility of consensual sodomy as a "travesty of justice." He feared that "a degenerate person or a person of depraved and low character and mind, by consent to the beastly act, could nullify the will of the legislature."<sup>49</sup> In Kerr's reasoning, society must be defended from the "degenerate" and perverse individual, whose consent to anal penetration not only inverted masculinity but also undermined the political and social order. The ferocity of Kerr's response indexed the severity of the perceived threat. Consensual sodomy produced an "alternative mode of being," and its very viability "denaturalized" heterosexuality as the only "true identity."<sup>50</sup> Kerr's demand for the blanket illegitimacy of all male-to-male sexual relations was imperative to fortify the vision of normal male sexuality. Statutory protections for male youth were not enough. Kerr argued for the criminality of all acts of sodomy and the necessity of statutory protections for female youth that buttressed an ideology of natural sex, guiding male sexual activity into regulated sex, marital union, and procreation with adult females.

Although Kerr may have denied and deferred the question of consensual sex between males by nullifying its legitimacy, judges and prosecutors could not ignore its widespread existence. Like sociologists, psychologists, and social workers of the era, they instead created social categories to identify normalcy, degeneracy, and delinquency.<sup>51</sup> A striking example of how these categories converged and were reassembled is the 1928 Stockton case of "sex perversion," a newly created felony category that the California legislature established in 1921 to criminalize oral sex. In the 1910s the legislature had repeatedly attempted to criminalize oral-genital contact in response to its frequent prosecution in county courts, the California State Supreme Court ruling that only anal penetration constituted the "crime against nature," and the dissatisfaction of the frequent police recourse to the misdemeanor "vagrancy" charge to punish it.<sup>52</sup> In 1928, Stockton police arrested thirty-one-year-old Jack Lynch and seventy-year-old Keshn Singh for engaging in "sex perversion," specifi-



cally for being caught with Singh's penis in Lynch's mouth. The prosecution designated Keshn Singh as the accomplice who had paid Lynch fifty cents and "upon whom Lynch practiced his vulgar employment."<sup>53</sup>

In the court record, Assistant District Attorney H. C. Stanley deployed the categories of degeneracy, normalcy, and amorality within the framework of the "ordinary American" in order to identify the internal and external threats to American identity. At the sentencing hearing, Stanley, doubting that intoxication impaired Singh's judgment, instead believed his actions evidenced intrinsic amorality that was incompatible with American ethical behavior, despite Singh's having lived in the United States for twenty-three years. Stanley argued that Singh showed no remorse about the "wrong" of his action and he "does not seem to be a person that regards such a practice as the ordinary American would." Stanley advocated Singh's incarceration as a preventive measure to stop him from "prostituting other men by furnishing himself as a subject to be acted upon, whether for or without compensation."<sup>54</sup> Judge George Buck agreed and sentenced Singh to four years at San Quentin. As an amoral foreigner, Singh was cast as incapable of ever becoming an "ordinary American."

On the other hand, Jack Lynch appeared to have the lineage of an "ordinary American," a white man who was born in Wisconsin. But he also possessed all the characteristics of a vagrant—he was unmarried at age thirty-one, migrated from the upper Midwest to California in 1924, had temporarily worked in lumber camps and restaurants throughout the state, and had a long criminal record in California, which included vagrancy arrests and petty theft conviction, as well as the admission to arresting officers that he had practiced oral sex on men in Modesto and Stockton previous to this arrest. Stanley concluded that Lynch was a "natural degenerate," and that his record of vagrancy and habitual sex perversion made him unlikely to "be cured" of his "vulgar" practices that was "the incidental characteristic of the vagrant, who can never be regarded as a fit subject for society."<sup>55</sup> The case, a rare prosecution of two adult males, paired the amoral alien man who incited practices of sexual perversion with the condensation of the vagrant, degenerate, and sex pervert in the body of the white, native-born man. Neither man was considered a victim of the crime; rather, the work of policing their behavior served to ultimately isolate degenerate and amoral subjects from American society and incarcerate unfit subjects of society.

Racial difference had incited police suspicion, but it was the new sexual identities that framed the legal prosecution. The categories of degenerate and pervert fortified an understanding of the normal. While some white middle-

class men such as Samuel Robbins could sidestep the indictment of sodomy through their ability to preserve their reputations as moral subjects and normal men, many more men were suspect because of how they were cast as either innately degenerate, through an enumerated criminal history, or amoral foreigners, by their "proven" reputation. In the Lynch and Singh oral sex perversion case, the policing of sex between white males and migrant/vagrant men, white identity was not as it may have first appeared—the sign of the always-innocent victim. Police and prosecutors thus deployed whiteness strategically in scrutinizing social contacts between so-called Americans and foreigner nomadic males, but the fundamental goal became to isolate "natural degeneracy" and amoral foreigners from contaminating American society.

The internal threat of the vagrant degenerate and the external threat of the amoral foreigner most perniciously converged in the potential corruption of male youth. During the 1910s and 1920s, California courts were interpreting the degree of male vulnerability and victimhood on perceptions of age, consciousness, and the ability to narrate sexual transgression. The characterization of the vulnerable and innocent male victim became that of someone who was acted upon without will or knowledge. A child under the age of fourteen occupied this category, as did an unconscious male of an indeterminate youthfulness. Harvey Carstenbrook's silence and protestations that he had no consciousness of sexual assault demonstrated how the age boundaries could be flexed to accommodate unconscious males. Above the age of an accomplice and below the age of legal adulthood, male youth were in a more precarious position in the courtroom. Sidney, Stanley, Alexander, and Hector, ironically because of their reluctant and coerced testimony of sexual assault by adult men, aroused suspicion of their potential consent and complicity. In practice in the lower courts, judges, attorneys, and juries interpreted the conscious choice of teenage males to socialize and participate with adult men on the double-edge of statutory protections. In fact, the parallel prosecution of some of these male youth for vagrancy and other misdemeanor charges in juvenile courts demonstrated how the legal proceedings served to rechannel the conduct of adolescent males and rehabilitate them into respectable sociality and sexuality.

In these early-twentieth-century California court cases, the variability of the ethnic and racial identity of the male youth (European immigrant youth, Native American, and native-born white youth) demonstrated the broadening of subjects for the project of social rehabilitation into moral and normal American men. While the racial boundaries for the social rehabilitation of male youth were malleable, the court cases underscored and justified the in-

surmountable racial boundary that perpetually defined Asian men as foreigners to the American nation. The amoral Asian could never be an “ordinary American” and was already defined as an unfit subject for American society and at the outer limits of the continuum between the “natural man” and the “natural degenerate.” The “foreigner” and the “degenerate” were not legal categories, but were culturally and politically potent contextual categories that served both to identify and to explain moral peril. Racial ascription of external threats such as “Oriental depravity” and “Hindu sodomites” had the taxonomic function of harnessing suspicion and identifying and amplifying targets for both the official police and the informal policing of community residents. But it did not produce a categorical certainty. Not all foreigners were immoral and degenerate; however, an alleged tendency to immorality reinforced racialized suspicions. In sentencing hearings and judicial decisions, the interpretation of criminal behavior shifted focus from the criminal act to criminal identities. And the very process of fixing individual behavior into broad social categories was undergoing transformation. Categories of ethnicity and race had been employed descriptively and analytically, but they were being harnessed to new categories such as degeneracy and normality. These categories were accruing salience in court decisions and were enabling a reconsideration of new liberal life forms. By the mid-twentieth century the broad categories of “normal” and “degenerate” would become interchangeable with the binary opposition of heterosexual and homosexual.<sup>56</sup>

The policing of degeneracy and anxious fixing of categories of unnatural sex and social conduct in spatial borderlands, both urban and rural, illuminated how liberal governance produced authoritative rule and social subjects to regulate the reproduction of a society of normal and ordinary Americans. The conjunction of external danger (amoral foreign migrant), internal danger (degenerate vagrant), and the identification of subjects for flexible rehabilitation (delinquent youth) became the ensemble of social figures that required policing and prosecution. On these grounds, liberal legal adjudication of sodomy and vagrancy in the early twentieth century gave way to a greater coherence of social figures that could be governed. Legal scholar Judith Grbich has encouraged scholarly investigation into “the ways in which legal reasoning transforms the embodied imaginings” of particular lives into that “which passes for the ‘normative.’”<sup>57</sup> The process of transforming “embodied imaginings” into normative subjects also produced a wide array of liberal life forms, both valorized and denigrated, that were shaped by legal, political, and cultural logics into a regulative field. In early-twentieth-century U.S. political and legal liberalism, the most valued and valorized life forms were the normal man

and ordinary woman, who were seen to constitute normal American sexuality and "fit subjects for society." The healthy, fit, reproductive capacities of normal men and women were affirmed as simultaneously "natural" and "civilized" by the legal regulations that both shaped consensual and contractual monogamous marriage and the curtailment of putatively unnatural habits and vice.

Liberal governance and the policing of liminal social spaces also produced life forms that defined the boundaries of, and threats to, American normalcy—the vagrant, the degenerate, and the delinquent—all of whom inhabited the expansive repertoire of the "abnormal" in law and social life. As Christopher Tomlinson has recognized, these new social subjects of liberal rule generate a paradoxical process of fortifying "the authority of normality and the deviancy of the abnormal."<sup>58</sup>

Theorizing from the geographical specificity of the Mexican American borderlands, Gloria Anzaldúa offered an analytical approach that incisively interprets the density of human associations that straddle spatial and social boundaries. Anzaldúa recognized the strategies of social survival in the borderlands by the "the squint-eyed, the perverse, the queer, the troublesome, the mongrel, the mulatto, the half breed, the half dead; in short those who cross over, pass over or go through the confines of the 'normal.'"<sup>59</sup> This process of traversing the boundaries and confines of the normal embraces the heterogeneity of borderland bodies and practices, which flourish upon and within national borders.

Borderlands historian Emma Perez encourages us to challenge the exclusions of racialized sexualities and the dominant historical narratives that have "chosen to ignore or negate the populations who are on the margins, outside of normative behavior."<sup>60</sup> Perez's self-conscious approach meshes queering with borderlands analysis by encouraging the mining and reinterpreting of the borderlands legal archive for lost and silenced heterogeneities. By casting a queer and critical borderlands perspective on the state's records, Perez advocates re-assembling alternative histories embedded in the legal archive of normalization.

This essay critically examines how legal codes, court cases, and jurisprudence contributed to both the sociological and aesthetic knowledge for identifying and regulating aliens, vagrants, and degenerates in spatial borderlands.<sup>61</sup> The policing of internal and external nomadic subjects revealed the ambiguity and insecurity of cross-racial and cross-class intimacy and intensified the fixing of social boundaries and social status. The state's imperative forged a seemingly unassailable defense of American normality and masculinity and an immense legal archive that records its success at maintaining security. Through

the process of abstracting legal subjects and rules of law, the legal archive can be harnessed to create authoritative and normalized legal subjects. But the very same repository can also be reinterpreted to expose rifts and crevices where competing narratives have slipped. These residual traces in the case records contradict and confound the normalizing of legal subjects. Just as the judges and prosecutors recognized that they could not guarantee that the borders of normative masculinity or American identity would hold no matter how vigilantly they attempted to curtail specific sexual acts, partners, or practices, so too our own examination should not mistake the indictment and incarceration of nomadic subjects as acquiescence to normativity. Instead, we can continue to reassess the moments throughout when the borders blur and nomadic subjects deflect the normalizing project of making ordinary Americans.

## Notes

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1. *People v. Arjan Singh*, Case No. 2464, 1926, Tulare County Superior Court; "Two Statutory Cases Are Up for Hearings; Probe of One Hindu's Case Results in Another Being Arrested," *Porterville Evening Recorder*, October 9, 1926.
2. Bruce La Brack, *Sikhs of Northern California, 1904-1975* (New York: AMS Press, 1988), 123-24; David Vaught, *Cultivating California: Growers, Specialty Crops, and Labor, 1875-1920* (Baltimore: Johns Hopkins University Press, 1999).
3. Ranjani Kanta Das, labor economist and special agent of the U.S. Department of Labor, charged to study South Asian migrants on the Pacific Coast. Ranjani Kanta Das, *Hindustani Workers on the Pacific Coast* (Berlin: Walter De Gruyter and Co., 1923), 83. Other noteworthy scholarship included Carleton H. Parker, *The Casual Laborer and Other Essays* (New York: Harcourt, Brace, and Howe, 1920); Nels Anderson, "Juvenile and Tramp," *Journal of American Institute of Criminal Law and Criminology* 14 (August 1923): 30; Josiah Flynt, "Homosexuality among Tramps, Appendix A," in Havelock Ellis, *Studies of the Psychology of Sex*, vol. 4, *Sex Inversion* (Philadelphia 1904). Recent historical scholarship that has situated this history of male homosociality and homosexuality includes Peter Boag, *Same Sex Affairs: Constructing and Controlling Homosexuality in the Pacific Northwest* (Berkeley: University of California Press, 2003); Dee Garceau, "Bunkies, Cross-Dressers, and Family Men: Cowboy Identity

- and the Gendering of Ranch Work," in *Across the Great Divide: Cultures of Manhood in the American West*, ed. Matthew Basso et al. (Minneapolis: University of Minnesota Press, 2000).
4. *People v. Arjan Singh*, "Two Statutory Cases Are Up for Hearings."
5. *People v. Arjan Singh*.
6. David Campbell, *Writing Security: United States Foreign Policy and the Politics of Identity*, rev. ed. (1992; Minneapolis: University of Minnesota Press, 1998), 1–13.
7. David Bell, "Sexual Citizenship," in *Mapping Desire: Geographies of Sexualities*, ed. David Bell and Gill Valentine (New York: Routledge, 1995), 311–13.
8. *People v. Arjan Singh*.
9. The interpretation of "foreign" incitement to vice was typical in all areas, from legislative hearings to published medical studies. For instance, see U.S. Congress, *Senate Reports of the Immigration Commission*, 61st Cong., 3rd sess., 1911, Doc 753, 86; Immigration Commission Reports, Importation and Harboring of Women for Immoral Purposes, S. Doc. No. 61–753, 86 (3rd sess., 1911); Alfred J. Zobel, "Primary Gonorrhea of the Rectum in the Male," *American Journal of Urology* 45.1 (November 1909). For the contextualization of these threats in immigration, labor, and urban vice literature, see Chris Friday, *Organizing Asian American Labor* (Philadelphia: Temple University Press, 1994); Boag, *Same-Sex Affairs*; Nayan Shah, *Contagious Divides: Epidemics and Race in San Francisco's Chinatown* (Berkeley: University of California Press, 2001).
10. The history of sodomy prosecutions has identified and regulated the male homosexual body and mapped the formation of urban sexual subcultures. Vagrancy law was frequently deployed to police transients, migrants, and vagabonds and to regulate public space in small towns and cities. Historically associated with the control of labor, vagrancy arrests policed the leisure activities and intervened in working-class and migrant social spaces under the pretext of preserving public order. The history of statutory age protections for sexual relations focused on protecting female youth from male adults. No statutory legislation at this time protected male youth the way that highly publicized legislative protections for female youth at the turn of the century did.
11. George Chauncey, *Gay New York: Gender, Urban Culture, and the Making of the Gay Male World, 1890–1940* (New York: Basic Books, 1994); and Nan Alamilla Boyd, *Wide Open Town: A History of Queer San Francisco to 1965* (Berkeley: University of California Press, 2003).
12. Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York* (Philadelphia: Temple University Press, 1986); David J. Langum, *Crossing Over the Line: Legislating Morality and the Mann Act* (Chicago: University of Chicago Press, 1994); Mara L. Keire, "The Vice Trust: A Reinterpretation of the White Slavery Scare in the United States, 1907–1917," *Journal of Social History* 35.1 (2001): 5–41; Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900–1918* (Baltimore: Johns Hopkins University Press, 1982); Pamela Haag, *Consent: Sexual Rights and the Transformation of American Liberalism* (Ithaca: Cornell University Press, 1999).
13. Municipal and county jurisdictions across the United States, including those in California, Oregon, Illinois, New York, and Massachusetts, were at the vanguard of creating partnerships between public agencies and private voluntary associations that both policed juvenile delinquents and protected adolescents.
14. William M. McKinney, ed., "Rape," *California Jurisprudence: A Complete Statement of the Law and Practice of the State of California*, vol. 22 (San Francisco: Bancroft–Whitney Company, 1925), esp. 361–65.
15. Jane E. Larson, "Even a Worm Will Turn at Last": Rape Reform in Late-Nineteenth-Century America," *Yale Journal of Law and the Humanities* 9.1 (1997); Mary E. Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885–1920* (Chapel Hill: University of North Carolina Press, 1996).
16. Larson, "Even a Worm," 19–20; Odem, *Delinquent Daughters*.
17. The case is cited in the following appellate cases: *People v. Samuel P. Robbins* 171 Cal., 466 (1915); *People v. Kangiesser* 186 P. 388 (Cal. Dist. Ct. App. 1919); *People v. Carter Singh* 62 Cal. App. 450 (Dist. Ct. App. 1923). For summaries of the case law, see Curtis Hillyer, *Consolidated Supplement to the Codes of the State of California, 1927–1931*, pt. 2 (San Francisco: Bender-Moss, 1932), 6922–23, 6929–30; James M. Kerr, *The Codes of California*, vol. 4, *Penal Code 1920* (San Francisco: Bender-Moss, 1921), 277–78, 384–85, 390.
18. Transcript at 1, 4–7, *People v. Dong Pok Yip*, 164 Cal. 143, 145–46, 1912, California State Archives.
19. *People v. Dong Pok Yip*, 22.

20. Ibid., 13, 14.
21. Ibid., 147.
22. *People v. Carter Singh*.
23. Jeffrey P. Moran, *Teaching Sex: The Shaping of Adolescence in the Twentieth Century* (Cambridge, Mass.: Harvard University Press, 2000); Harvey J. Graff, *Conflicting Paths: Growing Up in America* (Cambridge, Mass.: Harvard University Press, 1995); Joseph F. Kett, *Rites of Passage: Adolescence in America, 1790–Present* (New York: Basic Books, 1977).
24. Odem, *Delinquent Daughters*; Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (Cambridge: Cambridge University Press, 2003); Anne Meis Knupfer, *Reform and Resistance: Gender, Delinquency, and America's First Juvenile Court* (New York: Routledge, 2001); David S. Tanenhaus, *Juvenile Justice in the Making* (New York: Oxford University Press, 2004).
25. Lilburn Merrill, "A Summary of Findings in a Study of Sexualisms among a Group of One Hundred Delinquent Boys," *American Journal of Urology and Sexology* 15 (1919): 259–69; A. J. Jones and Lee Janis, "Primary Syphilis of the Rectum and the Gonorrhea of the Anus in a Male Homosexual Playing the Role of the Female Prostitute," *American Journal of Syphilis, Gonorrhea, and Venereal Disease* 28 (July 1944): 453–57; F. A. Freyhan, "Homosexual Prostitution: A Case Report," *Delaware State Medical Journal* (May 1947): 92–94.
26. *People v. Jamil Singh*, Case No. 6029, 2–3, 7–9 (1918); Records of the Superior Court, Criminal Division, County of Sacramento, Sacramento Archives and Museum Collection Center (hereinafter "SAMCC").
27. Ibid., 15.
28. See *People v. Kangiesser*.
29. *People v. Robbins*, 145–46.
30. Dominick Cavallo, *Muscles and Morals: Organized Playgrounds and Urban Reform, 1880–1920* (Philadelphia: University of Pennsylvania Press, 1981), 15–48; Martha H. Verbrugge, *Able-Bodied Womanhood: Personal Health and Social Change in Nineteenth-Century Boston* (New York: Oxford University Press, 1988).
31. *People v. Robbins*, 145–46.
32. Ibid., 145.
33. *People v. Tara Singh*, Case No. 6039, 7 (1918), Records of the Superior Court, Criminal Division, County of Sacramento, SAMCC.
34. *People v. Tara Singh*, 9–10.
35. Ibid., 3.
36. 1891 Cal. Stat. 117 sec. 5, 7; William N. Eskridge Jr., *Gaylaw: Challenging the Apartheid of the Closet* (Cambridge, Mass.: Harvard University Press, 1999), 30.
37. See Arthur Sherry, "Vagrants, Rogues, and Vagabonds—Old Concepts in Need of Revision," *California Law Review* 48 (1960): 557–60; "Use of Vagrancy Type Laws for Arrest and Detention of Suspicious Persons," *Yale Law Journal* 59 (1950): 1351.
38. See Ahmed A. White, "A Different Kind of Labor Law: Vagrancy Law and the Regulation of Harvest Labor, 1913–1924," *University of Colorado Law Review* 75 (2004): 668–743; Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998); Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1998), 47–80.
39. Forrest W. Lacey, "Vagrancy and Other Crimes of Personal Condition," *Harvard Law Review* 66 (1953): 1203–26; William O. Douglas, "Vagrancy and Arrest on Suspicion," *Yale Law Journal* 70 (1960): 1–14.
40. Eskridge, *Gaylaw*, 31; Boyd, *Wide Open Town*.
41. *People v. Rola Singh*, 268 P. 958 (Cal. Dist. Ct. App. 1928); see Transcript of Testimony in District Court of Yuba County, 5–7, 10, 12, 13, California State Archives, No. 359 (June 1928) (hereinafter "Rola Transcript").
42. Rola Transcript, 43–50.
43. Harry J. Carstenbrook, Probate Case No. 3226 (May 18, 1927), Superior Court of Yuba City; Great Register of Yuba County, General Election, 1928, Marysville Public Library.
44. *People v. Jamil Singh*, 2.
45. Sharon Ullman, *Sex Seen: The Emergence of Modern Sexuality in America* (Berkeley: University of California Press, 1997); Christopher Brunnette, B.A. thesis, Critical Gender Studies, University of California, San Diego (in author's possession).



46. *People v. Jamil Singh*, 2–3.
47. *Ibid.*, 4.
48. Lauren Berlant, "Intimacy: A Special Issue," *Critical Inquiry* 24 (1998): 281–86. For an examination of the implications of the 2003 *Lawrence and Garner v. Texas* ruling in the U.S. Supreme Court and the legal and historical problem of coupled intimacy and public recognition, see Katherine Franke, "Commentary: The Domesticated Liberty of *Lawrence v. Texas*," *Columbia Law Review* 104 (2004): 1399–26; and Nayan Shah, "Policing Privacy, Migrants, and the Limits of Freedom," *Social Text* 84–85 (October 2005).
49. Kerr, *Codes of California*, 277–78.
50. Campbell, *Writing Security*, 3.
51. Jennifer Terry, *An American Obsession: Science, Medicine, and Homosexuality in Modern Society* (Chicago: University of Chicago Press, 2000).
52. Concern for the absence of statutes for oral sex led the state legislature in 1915 to pass a statute criminalizing fellatio and cunnilingus specifically; the State Supreme Court overturned the statute because it violated an "anti-Spanish" state constitutional amendment that required laws to be written in English. See Sharon Ullman, *Sex Seen*; Christopher Brunnette, B.A. thesis.
53. *People v. Jack Lynch and Keshn Singh*, Case No. 4680 (1928), San Joaquin County Superior Court.
54. *Ibid.*
55. *Ibid.*
56. Terry, *An American Obsession*.
57. Judith E. Grbich, "The Body in Legal Theory," *At the Boundaries of the Law: Feminism and Legal Theory*, ed. Martha A. Fineman and Nancy Thomadsen (New York: Routledge, 1991), 69.
58. Christopher Tomlinson, "Subordination, Authority, and Law: Subjects in Labor History," *International Labor and Working Class History* 47 (spring 1995): 56–90.
59. Gloria E. Anzaldúa in *Borderlands/La Frontera: The New Mestiza* (San Francisco: Aunt Lute Press, 1987).
60. Roderick Ferguson, *Aberrations in Black: Toward a Queer of Color Critique* (Minneapolis: University of Minnesota Press, 2003).
61. For a parallel process of tracking sociological knowledge and the racialized sexualization of African Americans, see Roderick Ferguson, *Aberrations in Black* (University of Minnesota Press, 2003).