

Racial Injustice
and the
Abolition of Justice Courts in Monterey County

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Table of Contents

I. Introduction and Overview	1
II. The Short and Simple Annals of the State	
A. State or County Action?	3
B. Beneficent Intent	5
C. The State’s Interest in Judicial Impartiality and Linkage	6
D. A Consistent State Policy?	9
III. A Possible County Scenario: Localism Versus Cosmopolitanism	
A. Introduction	13
B. “Buckskin Bill” and Parochial Non-Professionalism	13
C. The Battle of Pajaro	14
D. “Maybe I ought to be a John Bircher”	19
E. The Judicial Council’s Master Plan	21
F. <i>Gordon</i> and the Suicidal Self-Interest of Justice Court Judges	26
G. Localism Fades, Unification Succeeds, 1979-83	30
H. The County’s Case: Metropolitan Modernization	33
IV. A Heritage of Discrimination	
A. Introduction	36
B. Californios: “Grandees,” “Bandits,” and “Greasers”	36
C. Changing Economy and Demography	39
D. Housing Discrimination – Restrictive Covenants and Labor Camps ..	44
E. Employment Discrimination:	
“I don’t feel like working for a wetback.”	57
F. School Segregation and Ethnic Identity:	
The Separate, but Docile Policy	61
G. Cesar and the Judges	68
H. Traditional Non-Redistricting Principles	79
I. The Emergence of Ethnic Politics in Monterey County in the 1970s ...	82
J. The 1981 Reapportionment of the Board of County Supervisors:	
Dead Souls and Incumbent Protection	94

V. Why Abolish the Justice Courts?	
A. Intent Factors	112
B. The Intentions of the Abolitionists: A Summing Up	113
1. Models of Human Behavior	113
2. Historical Context	114
3. Text of Laws or Lines of Districts	119
4. Demographic Facts	120
5. Climate of Racial Politics	121
6. Background of Key Decisionmakers	122
7. Other Actions of Key Decisionmakers	125
8. Statements by Important Participants	126
9. State Policies and Institutional Rules	127
10. Impact	128
11. Three Competing Hypotheses about Intent	128

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I. Introduction and Overview

Broadly speaking, there are three different, conflicting stories that one might tell about the consolidation of the courts of Monterey county from 1967 through 1983. The first, the State's story, outlined in Section II of this report, is a simple one of the inevitable imposition of rationality on a chaotic judicial system by the modernizing, race-neutral State of California. The State Judicial Council¹ and the legislature were the actors, and they acted in the best interests of all, including minority ethnic groups, whom they have always zealously protected. In any event, judges are what my collegiate constitutional law professor called "the vestal virgins of the Constitution," and any move to make them responsive to the electorate should be resisted. The second story, detailed in Section III, moves down a notch, substituting local Monterey County officials and the County Bar Association for the State's characters as the principal actors. It is more complicated, at least recognizing that there was localist, parochial opposition that delayed the consolidation for many years. No doubt dwellers in the small towns and rural areas were

¹During this period, the State Judicial Council, composed of the Chief Justice of the State Supreme Court and his or her appointees, was virtually invisible. A 1975 survey of state lawyers found that only 7% of them had heard of the Council and that only 1 of every 100 lawyers approved of its policies. See Harry N. Scheiber, "Innovation, Resistance, and Change: A History of Judicial Reform and the California Courts, 1960-1990," 66 *Southern California Law Review* 2050 (1993), 2113, n. 233.

sincere in their desire for local control and in their efforts to avoid driving 75 miles or more to contest traffic tickets or charges of petty crimes, but in the end, in this second tale, they realized that it was less expensive and more efficient to centralize all judicial functions in Salinas and Monterey. The County story also recognizes the importance of the personal self-interest of judges, who pressed at times for eliminating the justice courts and at other times, for keeping them. But in the County's, as well as the State's version of history, race played no role. The third story discounts the first as a convenient fiction and borrows elements from the second story, but puts the events into the long and continuing local history of harsh racial and ethnic discrimination in Monterey County, a history that the first two stories studiously ignore. It points as well to the county's history of using electoral rules and structures to solidify control by those who drafted the rules. The history of discrimination takes up part IV of the report. Part V summarizes the evidence for the three hypotheses about the motivation of the actors who eliminated Monterey County's justice courts.

Should those who are attempting to determine whether electoral changes in Monterey County were influenced by racial considerations look on official protestations of beneficent intentions with some skepticism? Why did the parochial resistance to changes that undermined democratic local control, at first so strong, gradually weaken? Might there have been a connection between this weakening and the growth of Latino labor and political activism, with the increasing number of minority citizens in Monterey County who were able and anxious to influence political decisions, including those of the judiciary? Does Monterey's history reveal a judiciary so stubbornly apolitical, independent, and equally protective of the rights of all citizens, regardless of race or origin, that preserving such a pristine institutional tradition should be

considered not only a compelling state interest, one that outweighs giving minorities an equal right to elect candidates of their choice, but also an overwhelming motive for any change in the structure of electing the judiciary?

This paper will explore the evidence for these three stories, or what several political scientists have recently termed “analytic narratives,”² in an attempt to understand why sub-county judicial districts were submerged into a county-wide electoral system, where by definition, concentrated minorities have less influence on individual electoral outcomes than they have in fairly-drawn, smaller districts.

II. The Short and Simple Annals of the State

A. State or County Action?

The State of California’s 28-page preclearance submission document dated January, 2000 conveniently summarizes the State’s view.³ Its argument is so forced, its reasoning so self-contradictory, its citation of facts so sketchy that it is difficult to take seriously as an explanation of human behavior.

The State begins by asking for preclearance of the State statutes. But it was the County’s

²Robert H. Bates *et al.*, *Analytic Narratives* (Princeton, N.J.: Princeton University Press, 1998).

³The State’s response to Department of Justice inquiries, dated July 19, 2000, merely adds a few grace notes to the January, 2000 document. I will therefore concentrate on the January report, touching on the July submission when it adds anything.

ordinances, which the State only elliptically refers to until p. 15, that actually produced the consolidation of the courts. It is noteworthy that in this document, the State does not give the precise dates of any of the ordinances or statutes, allowing the reader to assume that those passed in the same year were effectively simultaneous. In fact, as can be seen in the Jurisdictional Statement in the *Lopez* Supreme Court case, argued during the 1997 term (pp. 26-80), the County's ordinances preceded the relevant State laws. Those laws, moreover, were the products of bills introduced by locally-based state legislators at the behest of the County government or sometimes, the County Bar Association. All eleven bills from 1968 through 1985 whose bureaucratic histories the State documents in its July 19, 2000 Section 5 submission were introduced and shepherded through the legislature by Monterey County's members of the Assembly and/or State Senate -- Donald Grunsky, Alan Pattee, Bob Wood, Frank Murphy, Henry Mello, Carol Hallett, and Sam Farr. All passed virtually unanimously as "local courtesy" bills and aroused no organized or even disorganized opposition in the legislative process. And every "background information" or "bill analysis work sheet" on the bills, produced as a normal part of the bureaucratic process in the legislature, notes that the bills were introduced at the request of the Monterey County Board of Supervisors.⁴ Rather than an orderly series of top-down reforms, as in the State picture, this was, I will show in part III of this paper, a sporadic and often hotly contested spate of bottom-up changes.

⁴The July 19, 2000 Section Five Submission is officially titled "Section 5 Preclearance Submission, supplemental Information Per USDOJ Request, Response to March 20, 2000 Letter from Mr. Joseph D. Rich, (USDOJ Files Nos. 1990-2127; 1990-2143; 1990-2144; 1990-2145; 2000-0223; 2000-1082)." The four volumes are unpaginated. I concentrated on the 1968-1985 laws because after that time, the courts of Monterey County were fully unified and its justice courts had been abolished.

B. Beneficent Intent

Having distorted the locus of the actions, the State proceeds not only to deny that it had a discriminatory purpose, but to claim that its acts resulted partly from a desire to assist minorities. Its aims, it says, were not only “to improve judicial services,” but also “to increase voting rights . . . and provide a system of elections that fairly reflects the voting strength of the Hispanic community . . .” Although the State provides no backing for these latter assertions, it is instructive to imagine what sort of evidence it might cite. If its assertion is true, then the sponsors of these laws should have been particularly associated with Latino voting rights, and the debates on the legislative floor or in committees or in the newspapers ought to have pointed out their racially progressive purposes. The elections by themselves ought to have produced Latino judges or judges from other ethnic groups who were known for being particularly sympathetic to Latino concerns. But the State offers no such evidence whatsoever for its strong assertions, and I have found none in my research.

When the State does not claim a beneficent intent, it offers no explanation at all, and its attention to facts is careless. In its July 19, 2000 response to Department of Justice inquiries, for instance, the State infers that because the Judicial Council’s 1972 study preceded the consolidation of the Soledad and Gonzales justice courts, “it appears” that the study caused the consolidation. Later, the State denies that alternatives to the at-large method of election were suggested when that method was substituted for districts. In each case, the counter-argument is so plain that it could not have escaped even a busy attorney preparing a response: vacancies can be filled, rather than abolishing the office, and district elections can be maintained. More generally, correlation does not prove causation and the status quo is always an alternative to a

change. When the State turns to the reasons for the consolidation of the King City and Greenfield courts in 1973, it does not even bother to check whether a vacancy occurred. The lawyers merely “presume” it, and they again assume that the existence of a vacancy provides a reason for abolishing a court, and not merely an opportunity to take action for other reasons. They do not even bother to discuss any potential reasons for the 1968, 1976, 1979, and 1983 changes in the Monterey County judicial system, much less the debates and struggles over those changes.

The State continues its first submission by claiming that because it, and not the County, was the relevant actor, and because the State is not a covered jurisdiction, its actions ought not to be suspect, but rather, they should be deferred to. But of course this only follows if one accepts the first contention that the State and not the County brought about the consolidations, and that is false. Thus, the actions are due only the deference and lack of suspicion that may be due the County.⁵

C. The State’s Interest in Judicial Impartiality and Linkage

The State then propounds an argument that no one familiar with recent California history or with the history of Monterey County could possibly credit – that California judges are “impartial arbiters of cases and neutral interpreters of the law” to whom “public opinion must be

⁵This is not merely a legal point, but an explanatory one. If the State was the relevant actor, then one seeking explanations of the extinction of the justice courts in Monterey County ought to examine State decisions and State history and pay no special attention to the decisions and history of the people of Monterey County. If, on the contrary, the County was the important actor, then a completely different history needs to be examined, a completely different set of decisions, explained.

irrelevant . . .” “Judicial independence and integrity,” it implies in its July 19 letter, is so important to California that it ought to outweigh the State’s or County’s responsibilities under the Voting Rights Act. While it is true, the argument goes on, that judges have “constituencies,” only counties, not greater or lesser areas, form proper constituencies, and judges must be representative of only the larger bodies, apparently whether those bodies are as large as Los Angeles (estimated 1999 population 9,757,500) or as small as Alpine County (estimated 1999 population 1,190).

But of course, California is the state in which State Supreme Court Chief Justice Rose Bird and two of her Democratic party colleagues, Cruz Reynoso and Joseph Grodin, were turned out of office in a vituperative campaign spearheaded by the state Republican party and popularly reputed to have been determined by the Bird Court’s skepticism about capital punishment. The ouster became a major issue in the gubernatorial campaign, each side raised seven-figure sums to campaign in person and on television, and when Bird was defeated for reelection, Republican governor George Deukmejian named his former law partner, Malcolm Lucas, as her successor.⁶ Public opinion and partisan politics may be irrelevant to judges elsewhere, but not in California.⁷

⁶See, e.g., John W. Poulos, “Capital Punishment, the Legal Process, and the Emergence of the Lucas Court in California,” 23 *U.C. Davis Law Review* 157 (1990); Richard Zeiger, “The Supreme Court election: Rose Bird faces the ultimate jury,” *California Journal* 17 (Sept., 1986), 423-27, and five other articles in that month’s issue focusing on the 1986 State Supreme Court retention election.

⁷In the late 1970s, when the Bird Court had ruled *de facto* school segregation unconstitutional, conservative State Senator H.L. Richardson had sent questionnaires to 220 superior court judges then facing retention elections asking their views on, among other things, the school segregation decisions. See Harry N. Scheiber, “Innovation, Resistance, and Change: A History of Judicial Reform and the California Courts, 1960-1990,” 66 *Southern California Law Review* 2050 (1993), 2105, n. 203. Richardson’s action demonstrates that the politicization of the judiciary reached below the state level and involved divisive ethnic issues, even apart from

In Monterey County, as I shall show below, the courses of two of the most bitter agricultural strikes in the nation's history were crucially shaped by extremely controversial decisions by local judges. And as the Los Angeles/Alpine distinction points out, there is no logical connection between county lines, which were often drawn more than a century ago when populations and the economy were entirely different from those today, and narrowness of vision. To accept the State's argument, one would have to believe that a judge elected by Alpine County's 767 registered voters would necessarily have a broader vision than one elected by a subset of Los Angeles County's 3,996,605 registered voters or Monterey County's 145,838.

There is, as well, at least a tension in the State's discussion of appointment, election, linkage, and impartiality. All judges' careers, the State misleadingly claims on p. 8, begin with gubernatorial appointment. In fact, judges on Justice Courts in which there were vacancies were appointed not by the governor, but by the Board of County Supervisors. And some judges, especially in Justice Courts, first attained office by winning popular elections. It is also important to note that in California, judges from one county often substitute for judges from another, sometimes to balance case loads, and sometimes to avoid either the appearance or the reality of bias because of the local ties of county judges.⁸ Facts aside, it seems peculiar for the

anything that went on in Monterey County.

⁸This has long been the case, as the State implicitly acknowledges by including Report 4 of the "Select Committee on Trial Court Delay" of the Judicial Council in Exhibit 14. See p. 19 of that report. In its 1994 Annual Report, 167, the Judicial Council noted that "Blanket (within county) and reciprocal (between counties) assignments are issued each year by the Chief Justice to permit judges of one court to sit as judges of another court within their county or in a neighboring county. A total of 193 blanket assignments and 73 reciprocal assignments were issued during fiscal year 1992-93." Quoted in *Lopez v. Monterey County*, 871 F.Supp. 1254, 1260.

State to stress linkage between the county-level jurisdiction and the county-level electorate and then to insist that the governor, who is responsive to a state-level electorate, holds the key to the process by which judges obtain and (since incumbents are almost always reelected) retain office. Moreover, recent California governors from both parties have hardly been known for their civics-textbook impartiality. They have been avid, ambitious partisans whose judicial appointments have reflected their distinctive ideologies. As has been widely noted, the State's current governor, Gray Davis, has declared that he would expect any judge whom he has named to the State's judiciary to resign if the judge later rejects Davis's position in a judicial ruling on such issues as the death penalty or same-sex marriage.⁹ Again, the State's submission reflects not the way the Monterey judicial system really worked during this period, but a sanitized, idealized, grossly distorted caricature.

D. A Consistent State Policy?

Indeed, several of the documents that the State includes in its submission exhibits undermine its case. Thus, a report included in Exhibit 14 on the proposed 1994 amendment that finally eliminated justice courts throughout the state points out that attempts to unify the trial courts go back at least as far as the state's 1879 constitutional convention. It was 119 years before the movement succeeded, which brings into question whether consolidation can be considered to have been consistent state policy during the period.

⁹*Los Angeles Times*, March 1, 2000.

Parts of a 1980 *Pacific Law Journal* article,¹⁰ also included in Exhibit 14, demonstrate the depth of the resistance to court consolidation in the period since World War II. Although the State Bar Assn. recommended consolidating all trial courts in the 1940s, the Judicial Council only proposed a three-tier system of justice, municipal, and superior courts, with boundaries and numbers of courts still to be set by boards of county supervisors. As the Council acknowledged in its 1948 report, “The courts should be kept close to the people in the sense of accessibility to all communities and the retention of local election of judges.” Although the Council’s plan was passed in 1950 as Proposition 3, local governments resisted merging smaller districts, and they created 400 municipal¹¹ and justice court districts in the state as a whole, instead of the 266 that the Judicial Council had favored. After Proposition 3, no more state-level moves toward consolidation of county courts were proposed for a generation. Despite a Judicial Council Study on trial court delay and a report from the Booz, Allen and Hamilton consulting firm in 1972, both of which touted court unification as guaranteeing economy, efficiency, and professionalism, three consolidation bills failed in the legislature in that year, others were killed in 1973, the Judicial Council and the State Bar could not even agree on a bill in 1974, and an effort by a joint legislative committee in 1974 was disregarded by other legislators. The Judicial Council’s 1972 study foresaw unification in every county by 1973; it took until 1998.

¹⁰P. Stolz and K. Gunn, “The California Judicial Council: The Beginnings of an Institutional History,” 11 *Pacific Law Journal*, 877, 888-90, 896-98.

¹¹Presumably, as in Monterey County, counties persuaded their local state representatives to carry bills in the legislature to create or expand municipal courts, which they could not formally create by county ordinance.

The California Supreme Court decision of 1974 in *Gordon v. Justice Court*,¹² which disqualified lay judges from hearing cases that might send defendants to jail, paradoxically helped to prolong the life of the justice courts. After *Gordon*, in Monterey as well as in other counties, boards of supervisors filled justice court vacancies with licensed attorneys, sitting lay justice court judges completed law degrees, and the State organized a system of county circuit riding judges to preside in justice courts in cases which *Gordon* prevented the few remaining lay judges from hearing. In 1976, the legislature eliminated the differences in jurisdiction between justice and municipal courts, leaving as a distinction between them only whether their districts contained at least 40,000 people, as the municipal court districts had to, or fewer, as was the case in justice courts. At that point, abolition of the courts in smaller areas would only move the justice courts from rural and suburban areas to the cities without affecting the professionalism of the judges, and with mixed effects on cost and efficiency. Why give up convenience and the chance to elect locally-known people, many voters seemed to feel, and they often expressed their thoughts to their supervisors and legislators. From 1971 through 1981, the legislature considered thirteen bills to unify the trial courts. Twelve failed, and the only one to succeed shifted the decision to the voters who, in 1981, rejected a statewide trial court unification measure, Proposition 10.¹³

It was only in 1987, four years after Monterey County had moved to eliminate its remaining justice courts, that the State legislature gave other counties a financial incentive to

¹²12 Cal. 3d 323 (1974).

¹³“Trial Court Unification: Proposed Constitutional Amendments and Commentary,” attached to memo from Roger Warren to members of the Judicial Council, Sept. 13, 1993, in Exhibit 14 of the State’s Section 5 Submission, January, 2000.

follow Monterey's example when it provided funding for 90% of the municipal court judges' salaries, but none of those for justice court judges. By the next year, legislators proposed to keep the justice courts going by funding their judges' salaries at the same rate as those of municipal judges.¹⁴ As late as September, 1993, the State Judicial Council, in the words of one of its committees, had "taken no position at all – not even tentatively – on the broader issue of whether to support trial court unification." It was 1994 when a state constitutional amendment finally eliminated justice courts altogether and 1998 when another constitutional amendment allowed municipal and superior court judges in each county to vote on whether to unify their courts. This authorization by the state of local-option unification took place 15 years after Monterey County courts had been conjoined.

In sum, there was never any consistent state policy to abolish justice courts or elect all county judges at-large until long after Monterey County did so. The State was not the actor that brought the County's judicial unification about. Anyone attempting to explain that unification must focus on the county level.

¹⁴Memos to Members of the Municipal and Justice Court Committee of the Judicial Council of California from Donald B. Day and Michael A. Fischer, Sept. 23, 1987; from Day, Feb. 3, 1988; and from Day and Beth Mullen, April 28, 1988, all in Exhibit 14, Section 5 Submission.

III. A Possible County Scenario: Localism Versus Cosmopolitanism

A. Introduction

Since the State took over the Section 5 submission process that would normally have been handled by the local covered jurisdiction, there is no convenient document bearing Monterey County's imprimatur that puts forth its version of events. But a somewhat more complicated narrative than the State's, with local proponents on both sides of the consolidation issue, but with neither side intending to foster or impede the election of members of any particular ethnic group, would best fit the County government's desire to have its judicial changes validated. This section of the paper presents such a scenario. In the course of developing a case that the County might wish to make, I will also lay out much of the basic narrative of events most immediately relevant to the unification of the Monterey County court system. The larger context will be added in the paper's fourth section.

B. "Buckskin Bill" and Parochial Non-Professionalism

To put the County's putative hypothesis in the best light, let us start with a striking example. In 1964, before Monterey County was a covered jurisdiction, it considered taking advantage of the retirement of the justice court judge in tiny San Ardo, the southernmost town in the county, to dissolve his court. Judge William Z. "Buckskin Bill" Adam, 86 years old and a justice court judge for 9 years, had no legal training, a handlebar mustache, a penchant for playing the fiddle, and a tendency to make decisions that were reversed by the Superior Court, sitting as an appeals court. When one Robert F. Stevenson was arrested for driving only 45 miles per hour in a 65-mile per hour zone on Highway 101, he demanded a jury trial, which Adam

believed a waste of the State's time and money. After Stevenson's conviction, Adam assessed him court costs, in addition to the fine for his traffic violation. The Monterey County Superior Court judges reversed that decision, 2-1, on the grounds that Adam had penalized Stevenson for exercising a constitutional right.¹⁵ The example paints a picture of a non-professional, unprofessional local character who handled mostly traffic tickets and whose court's ultimate demise was both inevitable and unlamentable.¹⁶

C. The Battle of Pajaro

As early as 1945, the Monterey County Board of Supervisors studied the amount of business in each of its justice courts in an attempt to determine whether it was desirable to consolidate them. In conclusions that would resound again and again over the next three decades, the County rejected reform, declaring that consolidation would not save money, but only inconvenience people.¹⁷

Before the passage of Proposition 3 in 1950, Monterey County had 22 lower courts, and after the Proposition went into effect, the State Judicial Council recommended that the County be divided into five judicial districts: municipal courts in Salinas and Monterey-Pacific Grove, and justice courts in Castroville-Pajaro, Soledad-Gonzales, and King City-Greenfield. The County refused the advice, maintaining ten county courts -- the Salinas and Monterey-Carmel municipal

¹⁵*Salinas Californian* (hereinafter abbreviated *SC*), Jan. 7, 1964, 11; March 19, 1964, 7.

¹⁶That it might also suggest that the all-Anglo character of judicial officeholders in the County was not the product of their lack of professional qualifications may be ignored for the time being, though kept in mind in later sections of this paper.

¹⁷*SC*, April 24, 1945, 1.

courts and the following eight justice courts: Castroville, Pajaro, Pacific Grove, Gonzales, Soledad, Greenfield, King City, and San Ardo.¹⁸ Since the story of consolidations and renamings over the years is complex, it will be convenient to summarize the changes in a table.

Table 1: Consolidations, Renaming, and Unification of the Courts of Monterey County, 1968-83

Date of County Ordinance	Judicial District	Consolidated With	Renamed
1968: 3/26	Castroville	Pajaro	
1972: 10/3	Soledad	Gonzales	
1973: 11/13	King City	Greenfield	
1976: 1/13	Pacific Grove King City- Greenfield, San Ardo	Monterey-Carmel Salinas	
1976: 8/10	Castroville-Pajaro		No. Mont. County
1976: 9/7	Monterey-Carmel Soledad-Gonzales King City- Greenfield, San Ardo		Mont. Peninsula Central Southern
1979: 6/5	No. Mont. Co Mont. Peninsula	Salinas Salinas	Mont. Co. Muni. Court District

¹⁸Judicial Council staff study, attached to Donald R. Wright to Warren Church, Aug. 18, 1972, in Section 5 Submission file, Exhibit 4, p. 5; Monterey County Ordinance No. 1347, March 30, 1964. When the judicial districts were redrawn by the board of supervisors in 1964, four “judicial townships” were eliminated, but no justice court judges are listed as having sat in those courts since 1951, and the 1972 Judicial Council study states that the 10-district setup had been adopted in 1951.

1983: 8/2	Central Southern	Mont. Co. Muni. Court District	
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When motions to consolidate the courts came up in 1964, Arthur Atteridge, the supervisor from the county seat and largest city in the county, Salinas, proposed to merge the justice courts in King City and Greenfield, those in Soledad and Gonzales, and the ones in Castroville and Pajaro, leaving only five justice courts, instead of eight.¹⁹ His efforts failed. He renewed them in July, 1967, when Pajaro Justice Court Judge Arthur R. Avery retired and the State Judicial Council proposed to eliminate the Pajaro court, joining it with that in nearby Castroville. Not only was Atteridge's more comprehensive move unceremoniously dismissed by his fellow board members, but the attempt to destroy the Pajaro court unleashed a storm of criticism and launched a nasty personal and ideological battle that was to last for eight months. Within a week, 457 people had signed a petition to retain the Pajaro Justice Court, 40 Pajaro court supporters and no opponents turned out for a board of supervisors' meeting on the subject in Salinas, and the board rejected consolidation by a 3-2 vote. The rejection was led by Sup. Warren Church of the North County area, which encompasses Castroville and Pajaro, who was joined by the other two supervisors who had justice courts in their districts, South County Sup. Bob Wood and Monterey Peninsula Sup. Willard Branson. Supervisors Atteridge and Beauford Anderson of Seaside, whose districts contained no justice courts, formed the minority. The ten citizens who spoke on the subject at the supervisors' meeting contended that "there was a need for more service, rather than less," conservative Republican Sup. Wood declared that the justice

¹⁹SC, July 5, 1967, 2.

courts were necessary because “people will not go to the cities with their small problems,” retired Justice Avery called the Pajaro court the “center of the community,” and Sup. Church, a prominent Democrat, denied that eliminating the court would save much money. Support for the justice courts was thus intense and bipartisan. Countering these parochial concerns and seeming to deny the propriety of judicial elections altogether, Sup. Atteridge asserted that “. . . personal contact could be more a hindrance to justice than a help. . . . There is a fairer trial if the judge does not know the people.”²⁰

Two men, Robert F. Tanner of Aromas, a highway patrolman and former Monterey County deputy sheriff, and Billy G. Parker of Watsonville, a former deputy sheriff and police officer in neighboring Santa Cruz County, applied for the Pajaro Justice Court job and passed the qualification exam. Because Sup. Church had had dealings with them both, Tanner in business and Parker’s family in securing facilities in which the Pajaro court could sit, he initially recused himself from the decision to fill the position, which delayed it. Shortly after Church announced his stance on the appointment, Sup. Anderson resigned from the board because of ill health, and both the decision to retain the court and the decision to appoint a particular person were put off until Gov. Ronald Reagan could name Anderson’s successor. In the meantime, Sup. Church announced that his constituents would submit an initiative to keep the court, but County Counsel William Stoffers quashed the move by ruling the initiative illegal. Anticipating that abolition of the Pajaro court would endanger their own justice courts, city councils and chambers of commerce, as well as attorneys and private citizens in Gonzales, Greenfield, King City, and Soledad in South County, and Pacific Grove and Camel on the coast, joined North Countians in

²⁰SC, July 11, 1967, 1.

pressing the Board of Supervisors to retain the separate court in Pajaro. Even the Prunedale and Aromas chapters of the Grange and the Greenfield and Soledad Lions Clubs stood by Pajaro. Costs, they reasoned correctly, would merely be shifted from the County government to the small towns and private citizens, and they would suffer the inconvenience of having to drive to the big cities. Pacific Grove residents pointed out that though not a lawyer, their justice court judge, Richard Eldred, was no amateur, but a member of the State Judicial Council. After equivocating for months while county residents, in the words of the leading local newspaper, “talked [the subject of whether to abolish the court] almost to death,” Reagan’s appointee Loren Smith eventually sided with those who wished to abolish the Pajaro court. In March, 1968, over eight months after the proposal had first been offered, the board of supervisors finally voted, 3-2, with Smith the swing vote, to consolidate the two justice courts.²¹

The *Salinas Californian*’s story on the March 12, 1968 board of supervisors’ meeting that effectively abolished the court began plaintively “Pajaro has lost its Justice Court,” and continued with reports of attacks and defenses, personal charges and countercharges, interest group position-taking and empty rhetoric – the usual stuff of local government meetings. Thus, when Monterey attorney John Shepard charged that the “lack of knowledge of law in Justice Courts is sometimes rather appalling,” Castroville Justice Court Judge Kenneth Blohm leapt to his fellow justices’ defense. While Don Hubbard affirmed the support of the county bar association for deletion of the Pajaro court, King City Justice Court Judge Howard Hudson and a recently-announced candidate for the Pajaro judgeship, Mrs. Francis Shank, opposed the bar’s position.

²¹Letters and resolutions from the files of the Board of Supervisors, 1967-68, in possession of the author; *SC*, Sept. 9, 1967, 8; Sept 13, 1967, 7; Sept. 19, 1967, 1; Feb. 17, 1963, 3; Feb. 20, 1968, 1; March 11, 1968, 1; March 13, 1968, 1.

Disappointed applicant for the judgeship Billy G. Parker accused Sup. Church of “attempted manipulations” in filling the position, but Church denied it and called Parker unqualified. Church went on to claim that having a separate court in Pajaro deterred crime, Sup. Atteridge contended that the light workload in the North County courts could be handled by a single judge, and Smith explained his vote vaguely by saying he favored “the best administration of justice for the area involved.”²² All in all, the meeting was a rather uninformative anticlimax to months of struggle inside and outside the board of supervisors.

D. “Maybe I ought to be a John Bircher”

A formally unrelated matter, however, throws light on the attachment of Monterey countians to very local control. When the County applied to the federal Department of Housing and Urban Development for a \$787,500 grant to plan a regional park in Toro, an unincorporated community halfway between the cities of Salinas and Monterey, HUD insisted on the establishment of a regional joint powers government to administer this and other federal planning grants. The proposed park spanned eleven townships, and no single agency would control it. A public outcry against what was presented as a federal assault on the right of local government led to seemingly endless negotiations over the powers and scope of the agency, as well as dramatic statements by public officials. For example, Sup. Beauford Anderson, recently appointed to the board by Gov. Reagan, declared “I’m not a John Bircher. But if they are for maintaining home rule, then maybe I ought to be a John Bircher.” To allay concerns, Pacific Grove Mayor Earl

²²SC, March 13, 1968, 1.

Grafton appointed what he called a committee of “arch conservatives” to draft the charter for the new local agency, and Republican Congressman Burt Talcott, a former Monterey County supervisor, successfully pressured HUD to designate the Board of Supervisors temporarily as a regional planning agency. But as one news story remarked about a Supervisors’ meeting on the subject, which occurred in the midst of the time when the Board was considering abolishing the Pajaro Justice Court, “A draft of an agreement has been revised several times and seems destined to be revised again and again.” A regional agency, members of the audience contended, “was a big step toward losing home rule.” Opponents of government above the town and city level, Niles Pease of Monterey remarked, “were tired of being labeled as ‘arch conservatives, Birchers, or even fascists.’” Instead, he said, they should merely be recognized as a concerned citizenry.²³ In Monterey County in 1967, the defense of justice courts was just one aspect of a strong attachment to localism.

Two contests in 1970 proved that incumbent judges could be beaten and that seats on the municipal and superior courts were not always filled by appointment. In an open-seat race for Superior Court, Salinas Municipal Court Judge Elmer Machado (who was not considered Hispanic) easily bested Deputy County Counsel Henry I. Jorgenson, whose father and namesake had been a superior court judge for many years. Their contest, the *Californian* commented, “has been devoid of rancor or the kind of charged issues that get candidates and their supporters angry.” In Soledad, ailing 12-year incumbent Justice Court Judge James Young, 62, lost to deputy sheriff and bailiff Robert Dunlap, 40, by the margin of 439 to 430 in a turnout of 60% of

²³SC, July 19, 1967, 7; July 25, 1967, 5, July 26, 1967, 1; Aug. 2, 1967, 1; Aug. 16, 1967, 1 (quotes).

the registered voters, a substantial participation rate for a local off-year June election.²⁴ The small number of registered voters in the district indicated how easily a unified local group might influence a justice court election.

E. The Judicial Council's Master Plan

Dunlap's intent to resign the Soledad post four years later led to the next battle over consolidation and generated more systematic information about the justice courts in Monterey than any of the other contests. Two candidates immediately announced for his position, Robert Vaughn, a Salinas Municipal Court bailiff, and Alan Hedegard, a deputy district attorney. The Soledad City Council and its Chamber of Commerce endorsed Hedegard because, they said, they wanted a licensed lawyer as judge. Feuding with the board of supervisors and the county district attorney, Dunlap infuriated his likely successor by dismissing a criminal case that Hedegard was handling in the hours just before the judge's resignation took effect. At the special meeting on the Soledad Justice Court vacancy, 30 Soledad residents and the area's supervisor, Ellis Tavernetti, asked that Hedegard be appointed without delay. Soledad Mayor Jack Francisoni opposed consolidating the Soledad and Gonzales justice courts because "home rule can still do the best job," and because eliminating his town's court would cost Soledad \$15,000 to \$20,000 a year in transportation costs and the pay of another police officer to transfer prisoners. In addition, Soledad City Councilman John Saavedra, later to become the first Mexican-American mayor in the Salinas Valley in recent times, argued that closing the Soledad court would impose a

²⁴SC, May 29, 1970, 4, 15; May 21, 1970, 3; June 1, 1970, 1 (quotation), 19; June 3, 1970, 1.

“tremendous hardship on Soledad residents, especially the Mexican-American population, which can’t afford to lose a day’s work to travel to another city to appear in court.” But supervisors from other parts of the county were unimpressed, and Tavernetti’s motion failed for want of a second when Sup. Warren Church, still bitter four years against losing the Pajaro Court, offered to support the Soledad justiceship only if Tavernetti would back the reestablishment of that in Pajaro.²⁵ Tavernetti hesitated, and rather than appoint Hedegard judge in Soledad, the supervisors, at the behest of the county bar association, asked the State Judicial Council to study the whole system of justice courts in Monterey County.²⁶ Thus, the impetus for the 1972 study came from the County, not the State -- from the bottom up, not the top down.

The most interesting part of the study by the staff of the Judicial Council was its figures on the types of offenses presented to each court, which the Council interpreted in a manner that fit its case for consolidation, but which may be viewed in a different light. The statistics are given in Table 2.

²⁵SC, May 29, 1970, 4, 15; May 21, 1970, 3; June 1, 1970, 1 (quotation), 19; June 3, 1970, 1.

²⁶SC, May 3, 1972, 13; May 5, 1972, 2; May 10, 1972, 21; May 13, 1972, 20; May 16, 1972, 2; May 17, 1972, 27; May 24, 1972, 1.

Table 2: How Different Were the Justice and Municipal Courts in 1972?

Court*	Traffic (% of All Offenses)	Parking	Felony	Other (includes Felony)
Salinas Muni.	24529 (33.1%)	42449 (57.3)	715 (1.0)	7007
Monterey-Carmel Muni.	26929 (22.6)	85283 (71.7)	699 (0.6)	6788
Castroville-Pajaro J.C.	8635 (85.5)	349 (3.5)	78 (0.8)	1114
Pacific Grove J.C.	2637 (47.2)	2389 (42.7)	79 (1.4)	563
Gonzales J.C.	3553 (87.5)	94 (2.3)	8 (0.2)	412
Soledad J.C.	2548 (79.5)	154 (4.8)	25 (0.8)	505
Greenfield J.C.	2610 (89.9)	0	15 (0.5)	293
King City J.C.	5493 (86.9)	141 (2.2)	18 (0.3)	688
San Ardo J.C.	5309 (93.0)	30 (0.5)	10 (0.2)	372

*Muni. = Municipal Court; J.C. = Justice Court

When the staff of Judicial Council presented the figures -- without percentages -- they emphasized the high numbers of traffic offenses in the justice courts in an attempt to counter the contention that abolishing the justice courts would inconvenience locals. “Traffic matters,” their report remarked, “generally are terminated by bail forfeiture and most frequently involve violations on the highways by persons traveling through the district in which they are cited.” But they took no special note of the large number of parking offenses in the cities. Police simply did not hand out parking tickets to tourists in Greenfield, as they did in Monterey or Pacific Grove, because tourists only stopped in Greenfield or King City or San Ardo long enough to buy gas or receive speeding tickets. The real story of the table is that about 90% of the business of every municipal or justice court in Monterey County in the early 1970s consisted of traffic or parking offenses, and that the courts in the cities were hardly more likely to handle felonies than those in

the small towns. No wonder that the drive for “efficiency” did not immediately overwhelm its opposition. There was, in fact, not all that much difference in what the courts did.

Because in 1971, the Judicial Council had published several studies on trial delay in the courts, arguing that unification was necessary to eliminate worrisome backlogs, one would have thought that their study of Monterey would stress delays as an index of inefficiency. But the 1972 study did not mention any delays in Monterey County, and the Council’s “weighted caseload” indicator did not suggest that any of the county’s judges was horribly overworked. This silence is doubly significant: it implies that there were no delays to document and it helps explain why there was little pressure from local judges to change the structure of the county’s courts.

The Judicial Council’s study, however, recommended full consolidation of the county’s courts in stages: Gonzales and Soledad would be joined with Salinas, Monterey would absorb Pacific Grove and coastal areas to the north and south, and Salinas and Monterey would join -- the only step that required action by the state legislature. When justice court judges retired or resigned, their courts would be swallowed by the county system, and if that took too long, they could be appointed “traffic referees” or temporary assistants to court clerks.²⁷ Centralization would save money for the county on court and administrative locations and justice court judges’ (actually quite meager) salaries.

The Supervisors refused to follow the blueprint. Bar Association President Peter Hoss, who favored unification, began his remarks before the Board by saying that he’d spoken to them

²⁷Judicial Council study, appended to Donald R. Wright to Warren Church, Aug. 18, 1972, in Section 5 Submission, Exhibit 4.

on the issue so many times that “I thought I ought to get a tape recording.” If Hoss had appeared by tape, rather than in person, it would seemingly not have mattered. Instead of taking the Judicial Council’s first step by merging Soledad and Gonzales into the Salinas district, the Board appointed Alan Hedegard to the vacant Soledad seat and took advantage of the retirement of Gonzales Judge James Eckman in September, 1972 to join his court with Soledad’s. Only Gonzales City Manager Mike Phelan appeared at the Board meeting to tell the supervisors, resignedly, that “Gonzales residents would naturally prefer to keep their own justice court but recognize the move as involving some taxpayer savings. It’s your decision.” To soothe hurt feelings, the Board authorized a temporary branch office of the court in Gonzales – an action that Sup. Church protested as applying a different standard to Gonzales than to Pajaro. Although there was some discussion by the Board of asking their local legislator, former Sup. Bob Wood, to introduce a bill in the legislature consolidating the Salinas and Monterey municipal courts, judges on those courts opposed combining the two municipal courts unless that was a step towards full consolidation. It would not save money, they believed, and judges from the two districts already cooperated informally. Except for the Gonzales closing, the Board was unanimously in favor of keeping the justice courts open, Church resisting on his personal view that “generally I don’t favor the thought of making larger units of government.”²⁸

Many in the South County area agreed. In the same months that the Board of Supervisors was rejecting the Judicial Council’s blueprint, a serious movement arose to split the Salinas Valley south of the city of Salinas off from the rest of Monterey County, forming a new county, at the time referred to as SoMoCo, which stood for South Monterey County. Begun by *King City*

²⁸SC, Sept. 13, 1972, 13; Sept. 20, 1972, 1; Nov. 22, 1972, 11.

Rustler publisher Harry Casey, the secessionist petition drive encountered large obstacles, having to obtain the signatures of 65% of South County's 5,600 registered voters, as well as half of the whole county's 89,000. It then had to secure similar percentages of the votes in a referendum. If the secession succeeded, government facilities and debt would have to be divided between the new and old counties, a new county administration would have to be created, and taxes would no doubt rise in both areas in order to sustain the same level of services.²⁹ That the movement failed is less surprising, in view of the high barriers to secessions from counties in California, than that it was tried. Its existence was a testament to the feeling among many South Countians that they were increasingly ignored in a county dominated by the growing cities of Salinas, Seaside, Marina, and Monterey, and of their attachment to local control. Because state law did not allow the designation of a municipal court for an area that contained less than 40,000 persons, the 28,000-resident SoMoCo would have had no choice but to fulfill the often-expressed wishes of its citizens and retain a system of justice courts.

F. *Gordon* and the Suicidal Self-Interest of Justice Court Judges

The 1974 *Gordon v. Justice Court* decision by the California State Supreme Court, combined with a reelection cycle, precipitated the elimination of justice courts all over the state, as well as a complicated set of events in Monterey County.³⁰ According to the *Salinas*

²⁹SC, Sept. 18, 1973, 1; Sept. 24, 1973, 4; Sept. 25, 1973, 4.

³⁰Exhibit 14 of the State's Section 5 Submission contains a table, drawn from the 1991 Annual Report of the Judicial Council to the Governor and Legislature, titled "California Judicial Districts As of June 30, 1953 to June 30, 1990," which gives the number of justice courts and the number of municipal courts for each year within that time period. The largest single decline in the number of justice courts in the state, from 175 to 111, took place in 1976-77, at the same time

Californian, to which justice courts represented “anachronistic, frontier justice,” rural supporters of justice courts and their judges “fought a tenacious rearguard action and staved off the inevitable longer than they had any reason to expect.” But the *Gordon* decision and an associated change in state law required voters to fill the positions with lawyers. Those lawyers, in turn, would have a financial incentive to upgrade their courts to municipal court status because municipal court judges were paid so much more. Faced with elections in several justice courts in 1976, the county’s justice court judges met and hatched a plan. The local state senator, Donald Grunsky, would introduce into the legislature a bill to provide for court commissioners in the Salinas and Monterey Municipal Courts. The Board of Supervisors would then appoint two of the three justice court judges who were not lawyers, Howard Hudson of King City-Greenfield and Richard Eldred of Pacific Grove, to the new court commissioner positions, with fewer responsibilities and higher salaries. Their courts would be merged with the municipal courts, as would that of San Ardo, where Judge Frank Gillett was retiring, anyway. Castroville-Pajaro, which had an incumbent lawyer-judge, Frank Novinger, would be transformed into a municipal court, while the lawyer-judge in Soledad-Gonzales, Alan Hedegard, would become a municipal court judge in Salinas. Both would raise their justice court salaries by over a third. It was, the *Californian* editorialized, “neat, logical and, frankly, self-serving and a bit cynical.”³¹

It was also costly and inefficient. Raising salaries and adding positions did not save money. As the presiding judge of the Salinas Municipal Court, Raymond Simmons, observed,

as Monterey County’s most concentrated period of action, and also presumably in response to the *Gordon* decision.

³¹SC, Dec. 8, 1975, 1; Dec. 10, 1975, 4.

“it would appear the commissioners are going to be receiving higher salaries for doing far less, and somebody -- some judge from Salinas is going to have to go down and take care of the balance of the load” previously carried by South County justice court judges. To Simmons, consolidation was “a political thing, of course, not judicial.” Unsurprisingly, North County Sup. Warren Church still opposed elimination of the justice courts, contending that “Consolidation doesn’t really do anything but remove a convenient service to the people.” South County Sup. Dusan Petrovic joined Church, remarking that “rural America is very much against the elimination of the justice courts.”³²

But almost as soon as the Board of Supervisors adopted a version of the scheme, they began to backtrack. Although Sup. Petrovic, somewhat contradictorily, said his constituents preferred to consolidate all the courts in South County with the Salinas municipal court, the other supervisors voted to keep Soledad-Gonzales as a separate district, upgraded to municipal court status, and Judge Hedegard claimed indifference as to where he sat. Sup. Church moved to turn the Castroville-Pajaro court into a municipal court by taking the city of Marina from the Monterey-Carmel district and adding it to Castroville-Pajaro, putting the expanded district above the 40,000-person threshold for municipal courts. Church also wanted to make the change effective Jan. 15, 1977, rather than Jan. 1, 1977, so that the incumbent in Castroville-Pajaro, Fred Novinger, could fill the post. To be a municipal court judge, one had to have been in practice for five years, and Novinger would be two days short of that time if the shift went into effect on Jan. 1. But rather uncharacteristically, three of the other supervisors refused to follow Church’s lead about a matter that primarily concerned his own district. Only Petrovic supported Church,

³²SC, Jan. 14, 1976, 1.

refusing to “poach on the prerogatives of my colleague for that area.” Meanwhile, the sitting municipal judges and one of the supervisors, Edwin Norris, indicated that the current non-lawyer justice court judges might not be hired as commissioners after all, possibly leaving them unemployed. As the *Salinas Californian* put it in a story titled “County fights courts merger,” the California Judicial Council “may see court consolidation as the wave of the future, but Monterey County is still paddling hard to stay out of the mainstream.”³³

By June, 1976, the proposal had come completely unraveled. By that time, King City Justice Court Judge Howard T. Hudson, after twelve years, had finally completed law school and passed the state bar exam, which meant that he was still eligible for the post. Moreover, studies had indicated that adding King City, Greenfield, and San Ardo to the Salinas Municipal Court district would require the appointment of a new municipal court judge. Far from saving money, then, eliminating Judge Hudson’s court would cost the county the difference between the salaries of a justice court and a municipal court judge.³⁴ But undoing the South County merger suggested undoing that of North County, and this time, Church’s earlier proposal succeeded, much to the delight of the crowd of 100 people at the supervisors’ meeting, especially the half that hailed from North County. Most of the audience apparently shared the feelings of King City Mayor David Tavernetti, who remarked that “The one issue of all issues that is important to those of us in South County is local representation.” Even a move to change the names of three of the districts - - to Southern, Central, and Monterey Peninsula -- in order to make them easier to type was

³³SC, Jan. 7, 1976, 1; Jan. 14, 1976, 1.

³⁴Because he had been admitted to practice for less than five years, Hudson would not be eligible to fill the position if his court became a municipal court.

controversial, and only passed 3-2. Localists guarded their identities closely.³⁵

G. Localism Fades, Unification Succeeds, 1979-83

With less ado than met the previous efforts at consolidation, the supervisors merged the county's three municipal courts in 1979. Instead of popular opposition, there was opposition from the County Bar Association, reversing its stance of many years. As Carmel attorney and Bar Association President Michael McClure put it, in a bureaucratic version of earlier localist rhetoric, "The base concept that bigger is better is not necessarily true." Denying that merging the North County, Monterey Peninsula, and Salinas Municipal Courts would save money, McClure declared that what the County government saved by consolidating facilities would just be shifted to town governments and to individuals who would have to travel further to get to court.³⁶ Nonetheless, the supervisors voted 3-2 in favor of the plan, with the supervisors from the affected areas – Sam Farr from the Peninsula, Kenneth Blohm from North County, and Barbara Shipnuck from Salinas – in the majority. The two supervisors whose districts would not be so directly affected by the change, Michal Moore and Dusan Petrovic, favored splitting the existing North County Municipal Court between the Monterey and Salinas courts, but keeping Monterey

³⁵SC, June 2, 1976, 16; July 19, 1976, 1; July 21, 1976, 1; July 22, 1976, 4; Aug. 11, 1976, 1.

³⁶Monterey County attorneys, most of whom practiced in either the Monterey-Carmel or Salinas areas, no doubt preferred not to have to travel to small towns in the North County or particularly, South County areas, which might help explain their support for eliminating justice courts. But they presumably also preferred not to have to make the trip from Monterey to Salinas or vice-versa, which would be consistent with their opposition to merging those two municipal courts. Such an elementary self-interest explanation fits their behavior much better than one based on a desire for efficiency or professionalism or cost minimization, because it explains the 1979 shift in the Bar Association's stance.

and Salinas separate.³⁷ Localism and the tradition of deference to other supervisors regarding decisions in their districts had eroded a good deal.

Four years later, the supervisors folded the two remaining courts in Soledad and King City, now called the central and southern courts, respectively, into the Salinas-Monterey system. This time, the County Administrator admitted that “If there are savings, it [*sic* -- they] may be at the expense to the public of a reduced level of service.” While the Administrator’s office promised greater efficiency in assigning judges, he admitted that justice court judges in Monterey County already substituted for municipal court judges, and he agreed with critics that the increased flexibility of court schedules might make scheduling more difficult for the district attorney and the public defender. Interestingly, the supposed largest beneficiaries of the alleged increased efficiency and flexibility, the municipal court judges, unanimously opposed consolidation on many of the same grounds as opponents had throughout the years. Consolidation, the judges resolved, would increase travel costs and lost time for South County residents and police officers, it would “destroy the concept of local courts” and rob South County of “its right to choose its own judges,” and it “would not increase the efficiency of the court system.” Perhaps most importantly for the municipal judges, it would not alleviate the workload of the municipal courts, because it would merely change the titles of the judges currently in the central and southern justice courts. Echoing the judges’ comments about the South County, the Latino Mayor of Soledad, Frank Ledesma, and the town’s Chamber of Commerce protested that abolition of Soledad’s justice court would increase costs for the town and decrease convenience

³⁷SC, May 9, 1979, 2. Before being elected supervisor in 1976, Blohm had been the judge of the Castroville-Pajaro Justice Court. The *Salinas Californian* did not carry any statement from Blohm on why he favored merging the North County court with the other two.

and service for Soledad's residents. There were no protests from King City, probably because the promised branch of the municipal court there would merely continue the justice court, with Howard Hudson, the justice court judge, named to the position. The sole change for King City was a change in Hudson's electoral district from the southern part of the county to the whole county. And because the incumbent central and the southern justice court judges would increase their salaries and, by increasing the size of their electorates, make themselves more difficult for non-incumbents to defeat, there were no opponents to the abolition of the last two justice courts with large personal stakes in the issue. Objections that judges would be "less responsive to the district's citizens if the judge is elected by all county residents," in the words of Asst. County Administrator Tom Kenan, or that the costs of elections would likely increase, or that judges would lose their importance as local role models, as the Administrator's report suggested, were unceremoniously brushed aside. The rest of the justice courts having already been eliminated, only Dusan Petrovic, the supervisor from South County, represented a district containing justice courts. Evidently responding to local feeling, he opposed abolition. But the other four supervisors, representing already-consolidated areas, voted for it.³⁸

In 1985, the municipal court judges proposed that the County be split into three judicial districts containing approximately 30,000 people each, with each district voting for three of the nine judges on the municipal court at the time. The proposal was withdrawn when the County Administrator opposed it because of its potential conflict with the State Constitution and the

³⁸County Administrator Ernest Morishita to Board of Supervisors, July 7, 1983; report of meeting of municipal court judges, July 13, 1983, Lesesma to William Peters, Chairman of Board of Supervisors, July 29, 1983; Harun Magnuson to Morishita, June 22, 1983, all in the unpaginated Exhibit B, State Section Five Submission, July 19, 2000; SC, May 12, 1983, 1; Jan. 1, 1984, 2.

federal Voting Rights Act, and when, for unstated reasons and without either a full-fledged hearing or a roll call vote, the majority of the Board of Supervisors indicated opposition.³⁹

H. The County's Case: Metropolitan Modernization

The best case for the County would resemble the State's, but with a change of actors and an allowance for opposition and self-interest. In this view, Monterey is a complex county, with rural backwaters and particularistic special interests, as well as cosmopolitan urban and suburban areas whose citizens value efficiency and clear and equal rules. As Salinas and the Monterey Peninsula grew to dominate the County's population, as corporate farming crowded out petty proprietorship, as levels of education and income increased, it was inevitable that the non-professional justices of the peace, relics of the early British common law, would be retired.

This was not, the county could argue, a system imposed by the State, but one chosen by the County. After all, the County had considered altering or consolidating the justice courts five years before Proposition 3 passed, and it never once adopted the proposals of the State Judicial Council when they were made. In 1951, the Council recommended that the County have five courts, but it chose to have ten. In 1967, the Council proposed the immediate abolition of the Pajaro justice court, but the Board of Supervisors took eight months and a great deal of struggle before it even accepted that minor change, a change that displaced no sitting judge. In 1972, it was elements within the County government who invited the Council to make a special study of Monterey County, not the Council which initiated the project, and the Board of Supervisors refused to adopt a single part of the Council's proposals for four years, only merging the Soledad

³⁹SC, Oct. 9, 1985, 2.

and Gonzales courts, as the Board had planned to do anyway. The 1974 *Gordon* case did precipitate the redistricting and renaming of various justice courts, one immediately and one almost immediately becoming municipal courts, but the changes were tailored to fit the personal needs of three incumbents. Because Alan Hedegard had practiced law for more than five years, his court was made a municipal court. Because Frank Novinger was just shy of tenure, his justice court was targeted for transmogrification into a municipal court a bit later. Because Howard Hudson had just passed the bar, he was not made a commissioner, and his court remained a justice court. Rather than follow the State's blueprint for efficiency, Monterey County wove a crazy quilt of its own design.

When the County in 1979 and 1983 melded the rest of its courts into a unified system elected at-large, it did not act in response to any State request or pressure. In fact, the State only required the abolition of justice courts in 1994 and invited the unification of municipal and superior courts in 1998, long after Monterey County had acted. What happened in Monterey County, according to this account, is that over the years, the attachment to extremely local interests died out, especially as professionally-trained lawyers replaced the lovable, but not entirely responsible "Buckskin Bill" judges. That representatives of Salinas and the Monterey Peninsula, whether conservative Republicans or moderate-to-liberal Democrats, were the prime movers of court unification on the Board of Supervisors, and that the County Bar Association was the leading outside interest group pressing for the change, supports the county-level modernization/professionalization hypothesis.

The appeal of this narrative is that it spices up the State's mechanical, deterministic

abstractions with conflict between real people. Instead of ignoring all of the facts about court unification in Monterey County, as the State does, the County's version explains many of them. But even if it is more realistic than the State's account, the County's analysis has two large difficulties: It fails to explain why the County did not submit the changes to the U.S. Department of Justice for review under Section 5 of the Voting Rights Act, and it ignores the historical and contemporary context, especially that related to the status of minorities in the County, which might explain why the County acted in the way that it did, when it did. At the very least, that context must be laid out so that one can consider its possible connections with judicial unification in Monterey County.

IV. A Heritage of Discrimination

A. Introduction

The State's narrative of court unification is blandly technical, relentlessly deterministic, and obviously false. The County's recognizes the importance of opposition and local actors, of desires for local control and convenience of access, as well as of individual self-interest, particularly that of justice court judges. Both stories neglect the social and political context in Monterey County, a context that may throw a different light on the motives for court consolidation, suggesting that perhaps the moves were not entirely independent of discriminatory impulses. For though its western slope has become a playground of mansions, golf courses, and tourism, the heart of Monterey County is still agricultural. During the time that the justice courts were being eliminated and the election method for all judges was being switched from districts to at-large, the agricultural system, always harshly exploitative, was being challenged as never before. And the county's judges played crucial roles in that struggle.

B. Californios: "Grandees," "Bandits," and "Greasers"

Blessed with a fine natural harbor, Monterey had been the capital of California, for a time, during the Mexican period. After annexation, Mexican families which had been awarded large land grants and which managed to keep them often integrated into "American" society, lending it a slightly exotic "Spanish" air. Forming a recognized interest group in politics, the "Californians," as the Anglos called them, were often rewarded for their activism by being given places on political tickets, particularly Democratic tickets, in Monterey. As one English-language newspaper remarked, "Constituting quite a fraction of our population, the native

Californians have been assigned . . . an honorable place on the Democratic ticket. As a matter of justice, their numbers entitle them to such representation in the county government . . .”⁴⁰

When railroads arrived and grain production began to crowd out stock raising, the land grant families began to subdivide and sell off their lands, with varying degrees of success. The paradigm of this upper class was Juan Bautista Castro, the founder of Castroville, newspaper editor, perennial and often successful office-seeker, and real estate promoter, a man who served as County Treasurer in the 1870s and County Supervisor as late as the 1890s and who was portrayed in the newspapers as an ambitious, grasping, Yankee-fied successor to the quaint, but decadent grandees of the old ranchos.⁴¹ An even more successful Californio who served as a member of Congress from the district encompassing Monterey was Romualdo Pacheco of Santa Barbara. The a son of a Mexican General, Romualdo Pacheco became, after 1850, an Assemblyman, a State Senator, a County Judge, a State Treasurer, and a Lieutenant Governor, as well as a congressman. Usually running as a Republican, Pacheco was renominated for Congress in 1880, according to Castro’s hostile newspaper, because “the Spanish vote is large in this district” and predominantly Democratic, and Pacheco would therefore lend strength to the Republican ticket. Like most other Californio politicians, Pacheco gave campaign speeches in

⁴⁰*Monterey Democrat*, Sept. 13, 1873, 2.

⁴¹For real estate, *Castroville Argus*, July 23, 1870, 2; for politics: *Salinas Standard*, Feb. 4, 1871, 2; *New Republic Journal*, June 12, 1872, 3; *Monterey Democrat*, Sept. 21, 1872, 2; May 1, 1875, 2; *Castroville Argus*, July 27, 1878, 2; Sept. 7, 1878, 2; *Salinas Weekly Index*, Feb. 27, 1890, 2; *Salinas Democrat*, July 12, 1890, 3. On Castro’s and other land grants, see *SC*, Oct. 18, 1952, 5A; Henry D. Barrows and Luther A. Ingersoll, eds., *A Memorial and Biographical History of the Coast Counties of Central California* (Chicago: Lewis Publishing Co., 1893), 433-36; Rutillus Harrison Allen, “Economic History of Agriculture in Monterey County, California During the American Period” (Unpub. Ph.D. thesis in Steinbeck Library, Salinas), 76.

both Spanish and English, an accepted practice at the time.⁴² Even after the turn of the 20th century, a few scattered men with Spanish surnames, such as Paul E. Zabala and Frederic P. Feliz, were elected to the Assembly, city councils, or even district attorney in Monterey County.⁴³

Castro, Pacheco, and members of similar families such as the Abregos, Gonzalezes, Soberaneses, and Sotos in Monterey County seem to have been well accepted by the settlers of English origin. As one newspaper put it, “In this county, in which for many years the Spanish element had the majority, no sensible man would ever think of depreciating an alliance with a Spanish family, new or old. In fact, it is an honor to all who are fortunate enough to win a fair bride connected with an ‘old Spanish family’ . . .” At Christmas, 1877, Jose Abrego hosted a “grand Christmas cascarone ball . . . The elite of Monterey were there.”⁴⁴ But Mexican-Americans with less money and perhaps darker skins were not so acceptable, being stereotyped as “bandits” or denigrated – the phrase was in use in Monterey County by the 1870s – as

⁴²*Monterey Republican*, June 15, 1871, 3; July 13, 1871, 1; *Salinas Standard*, Aug. 12, 1871, 2; *Salinas City Index*, Aug. 17, 1876, 2; Aug. 31, 1876, 2; *Castroville Argus*, Nov. 4, 1876, 2, Oct. 30, 1880, 2; *Salinas Weekly Index*, Oct. 25, 1888, 3, Nov. 1, 1888, 2.

⁴³*Salinas Daily Journal*, Aug. 7, 1898, 1; Nov. 26, 1898, 3; Sept. 1, 1900, 4; *Salinas Weekly Journal*, Sept. 29, 1900, 2; Nov. 3, 1900, 2; July 12, 1902, 2; Aug. 27, 1904, 1; *Salinas Weekly Index*, July 29, 1909, 3; June 30, 1910, 1.

⁴⁴*Monterey Herald*, July 24, 1875, 2, March 25, 1876, 2, and *Monterey Democrat*, April 6, 1878, 3, July 28, 1877, 3, Jan. 1, 1878, 3, March 16, 1878, 3 for the Abregos; *Monterey Herald*, March 26, 1878, 3, for the Gonzalez brothers; *Monterey Gazette*, Oct. 27, 1865, 2, *Monterey Democrat*, Sept. 18, 1880, 3, *King City Rustler Herald*, Oct. 30, 1939, 2, and *SC*, March 21, 1944, 1, for the Soberaneses; *Monterey republican*, March 3, 1870, 2, *Salinas Standard*, Oct. 7, 1871, 3, and *New Republic Journal*, June 26, 1872, 2, for J.M. Soto; *Monterey Herald*, Oct. 9, 1875, 2 (quote).

“greasers.”⁴⁵ A flight of romantic newspaper rhetoric both bemoaned the passing of the upper class and exposed the prejudices against the lower: “One of the most melancholy and yet instructive chapters in the marvelous history of California will be that which relates to the evil and miserable destiny which has overtaken the brave old princely Spaniards, only in less degree than the inferior Mexicans and barbarians [i.e., Native Americans] whom they subjugated.” After the Gold Rush, all three groups lost out, the editor went on, to the “hordes of Yankee immigrants.”⁴⁶

C. Changing Economy and Demography

With little immigration to California from Mexico and a good deal from the rest of the United States in the remainder of the 19th century, the Californio population percentage shrank to insignificance by 1900, when there were only 8,086 Californians of Mexican descent counted by the Census. It was the push of the Mexican Revolution, with its attendant economic and social dislocations, and the pull of agricultural transformations in California, from irrigation to refrigerated railroad cars to the intensive use of chemical fertilizers and pesticides, that brought Mexicans back to California, this time without any vestiges of a rich landowning class. By 1910, the number of people born in Mexico but living in California was estimated to total 33,694; by 1920, 88,771; by 1930, 234,000. Increasingly, Mexicans, along with Filipinos, replaced the Japanese, as well as the Italians, Spanish, and Portuguese immigrants as farm laborers. In

⁴⁵*Monterey Gazette*, Sept. 15, 1865, 2; *Monterey Republican*, June 1, 1871, 2 for other families; *Monterey Republican*, Feb. 9, 1871, 2, and *Salinas City Index*, Sept. 28, 1876, 2 for the term “greaser.”

⁴⁶*Monterey Herald*, Dec. 11, 1875, 3.

California labor camps, where many of the agricultural migrant workers were housed, the Mexican-born percentage grew from 7.1% in 1915 to 32.5% by 1933-34.⁴⁷ Although Mexican immigrants flowed first to the areas closest to the Mexican border, by the 1930s, they formed a substantial fraction of the field laborers in the Salinas Valley.⁴⁸

In the 1920s, laborers came to Monterey and Santa Cruz Counties to work on sugar beet farms owned by the Spreckels Sugar Co. By 1930, sugar beets had almost completely disappeared, and Monterey was growing half of all the lettuce in the United States. During the Depression, sugar beets and other vegetables joined lettuce as Salinas Valley crops. In constant dollars, the value of agricultural production in the Valley more than tripled from 1919 to 1939, and the population grew from 15,000 to over 40,000. Monterey County had the highest proportion of Asian-Americans, the vast majority of Japanese ancestry, of any city or county in the country, and together, Japanese-Americans and Mexicans, who were rarely U.S. citizens during the 1920s and 30s, comprised “the bulk of the field labor in the valley,” according to an economic historian of the county.⁴⁹ When the Japanese-Americans were sent to concentration camps during World War II and Anglos and African-Americans went either to the military or to better jobs in the cities, Monterey County joined other, mostly Southwestern localities in importing contract laborers from Mexico through a federal program that later became known as the “bracero program.”

⁴⁷J. Donald Fisher, “A Historical Study of the Migrant in California” (reprint ed., San Francisco: R and E Research Associates, 1973), 10-14.

⁴⁸William Orville Jones, “The Salinas Valley: Its Agricultural Development, 1920-40” (Unpub. Ph.D. thesis: Stanford Univ., 1947), 281.

⁴⁹Jones, “Salinas Valley,” 2-3, 281-82.

During the War, what was called the “imported worker” program, run by the liberal Farm Security Administration, was presented as a patriotic New Deal-ish “Good Neighbor” policy. When the first 600 Mexican farm laborers finally arrived to harvest Monterey County sugar beets, according to the *Salinas Californian* they waved an American flag and shouted “Long Live America and Mexico!”⁵⁰ Soon, however, some began to strike for higher wages, and farmers began to complain that many were recruited not from farms, but from Mexico City pool halls.⁵¹ Monterey County placed 2500 imported Mexican workers in 70 labor camps in 1943 and nearly as large a number in 1944.⁵² Mustered by federal agencies working under a U.S.-Mexican diplomatic agreement, the workers were contracted to specific farmers and prohibited from changing jobs. Part of their salary was withheld to insure that they would return to Mexico at the end of the harvest, and they could easily be deported if they proved troublesome to their employers. It was a recipe for docility and exploitation.

Although the “labor emergency” of wartime passed, the importation of workers from Mexico persisted. Between 1946 and 1951, most of the Mexican-born workers in U.S. agriculture came to the country informally and extra-legally. Growers preferred them to American-born workers, according to the aptly-named secretary-manager of the Grower-Shipper Vegetable Association in Salinas, Jack E. Bias, because after the harvest season, foreign-born workers could just be sent home. They were also unlikely to cause trouble, for, as the *Salinas*

⁵⁰SC, Oct. 5, 1942, 12; Dec. 2, 1942, 4.

⁵¹SC, Oct. 22, 1942, 2; Dec. 2, 1942, 4; May 10, 1943, 1; May 11, 1943, 2; *Monterey Daily Peninsula Herald* (hereinafter referred to as *DPH*), Feb. 4, 1944, 2.

⁵²SC, Oct. 22, 1943, 3; Jan. 12, 1944, 11-A; Oct. 10, 1944, 5.

Californian put it, “The threat of apprehension is with them constantly and they remain as obscure as possible.” Discovering an estimated 400,000 Mexican workers in the U.S. illegally in 1951, a presidential commission recommended that a federally-supervised program be renewed, leading to the passage of Public Laws 54 and 78 and an apparent drop in extra-legal immigration.⁵³ American-born workers in the prosperous 1950s, farm owners said, refused to perform stoop labor for long hours at low wages. Thus, the federal government, already experienced in the matter, had to continue to supervise the importation of Mexican farm workers. As braceros proved very useful as strikebreakers against the repeated efforts to organize agricultural labor unions, the growers concluded that bracero socialism was an excellent thing. Just as obviously, labor unions agitated for the end of the program, and in 1964, they finally succeeded.⁵⁴

For years after Congress formally ended the PL 78 bracero program, Mexican contract laborers were imported into Monterey County. In 1966, Salinas Strawberries was having so much trouble finding workers willing to work at the wages the company was willing to pay that it convinced the federal government to let it import 1000 braceros under PL 414, the general immigration and naturalization law. In each year from 1965 through 1967, tomato growers in the county imported 1000 or more braceros under the same law. In 1967, Monterey County’s braceros were said to represent more than 20% of all the contracted foreign agricultural workers

⁵³*SC*, May 3, 1950, 3; Jan. 31, 1951, 1; April 9, 1951, 1; June 28, 1951, 10; July 14, 1951, 5; July 19, 1951, 5; July 26, 1951, 10; Sept. 17, 1951, 4; Sept. 22, 1951, 12; Feb. 19, 1952, 9; Feb. 26, 1952, 1; April 11, 1952, 4 (quote); April 14, 1965, 20 (reduction).

⁵⁴J. Craig Jenkins, *The Politics of Insurgency: The Farm Worker Movement in the 1960s* (New York: Columbia University Press, 1985), 78-81, 86-130, 210-22; Richard C. Craig, *The Bracero Program* (Austin: University of Texas Press, 1971).

in the United States. At the same time, farmers in the county were laying off workers who joined unions. Importing workers to bust unions became so blatant that a federal court suit brought by California Rural Legal Assistance (hereafter CRLA) forced the U.S. Department of Labor to revise its process for determining when farmers really needed an exception from immigration laws. The seven-person panel set up to review importation requests included Cesar Chavez, Bert Corona of the Mexican-American Political Association, and Mike Peevey of the AFL-CIO.⁵⁵

Because the demand for agricultural labor did not cease in 1965 or 1968, and growers could not or would not pay enough to attract U.S.-born workers, imports continued – in the guise of undocumented workers, mostly from Mexico. In fact, of course, since the early part of the 20th century, there had always been at least some informal Mexican immigrants working on Monterey County farms. Now they again replaced the legal braceros, and the migrants worked along side of an increasing number of permanent residents, many of whom were or became citizens.

By 1970, what the U.S. Census referred to as “Spanish-Surname” individuals comprised 20.4% of Monterey County’s 247,450 people, but their population proportions varied widely. In the South County areas, their percentages were often high: In Soledad, 75% of the population had Spanish surnames; in Gonzales, 64%; in Greenfield, 50%; in King City, 33%; in San Ardo, 17%. In Salinas, which had by then become far and away the largest city in the county, 27% of the population had Spanish surnames, but it was highly concentrated in the Alisal and West Market Street areas. The North County area was 29% Spanish surname, including 49% in Pajaro and 51% in Castroville. But less than 10% of the residents of Monterey and only 15% of those in

⁵⁵SC, Aug. 16, 1967, 1; Sept. 5, 1967, 1; Sept. 7, 1967, 1; Sept 8, 1967, 1; Sept 9, 1967, 1; Sept. 12, 1967, 1; Sept. 13, 1967, 1; Sept. 15 1967, 1; Sept. 28, 1967, 1.

much more declass Seaside had Spanish last names, and the numbers in Camel and Pacific Grove were too few to count.

Compared to others in the county in 1970, those with Spanish surnames were deprived. They trailed in median income \$9730 to \$7499; in median education, 12.4 years to 8.7 years; in the percentage with professional, managerial, or administrative positions, over one-third to under 10%. But Spanish surnames led in the percentage of those in poverty, 16% to less than 10%; and three times as large a proportion as members of other ethnic backgrounds were farm workers.⁵⁶

D. Housing Discrimination – Restrictive Covenants and Labor Camps

The sterilized phrase “restrictive covenants” does not begin to convey the pervasiveness or disadvantages of the housing segregation that pervaded Monterey County quite openly through the early 1960s. Quotations from advertisements in the newspapers from the 1940s through 1964 may do so. That the “restrictions” mentioned referred almost entirely to bans on non-Anglos is shown by scattered ads that noted that there were “No race restrictions” on particular pieces of property, which I have bold-faced. To demonstrate that the restrictions reflected a general practice, rather than the singular biases of a few realtors, I have included the names of realtors, along with the advertisements. To reduce the clutter of footnotes, I have simply given the abbreviation for the newspaper, along with the date and page number:

A real estate ad by the Dayton-Johnson Co. advertized a new 5-room home on Tapadero St., in the Rodeo Tract, priced at \$4500. “In a neighborhood that is restricted and where all homes are new.” (*SC*, July 1, 1942, 10) There are many other similar ads, which will merely be quoted: A house, \$3500 “In restricted neighborhood.” (*SC*, July 17, 1942, 8) “5 room, restricted community.” (*SC*, Aug.

⁵⁶*SC*, June 20, 1971, 1, which is based on the 1970 U.S. Census.

4, 1942, 8) “New 5 room home with double garage in restricted community,” advertised by Williamson Realty Co. (SC, Aug. 6, 1942, 12) “Beautiful 6 room house with every modern convenience. . . Restricted subdivision.” (SC, Aug. 10, 1942, 10) “Ver[y] attractive 5-room dwelling in restricted district.” John O. Breschini. (SC, Aug. 11, 1942, 10) “New Modern Home restricted district.” (SC, Aug. 15, 1942, 10) “Just Completed in restricted district.” (SC, Aug. 24, 1942, 12) 4-room stucco house in the “Graves district” with “**No race restrictions.**” Williamson Realty Co. (SC, April 9, 1943, 10) “5-room house in restricted subdivision, Alisal district.” Eloise E. Phegley, realtor. (SC, Oct. 7, 1943, 9) “Ultra Modern 5-room Home. This home is nicely situated near Salinas in finest restricted section.” Williamson Realty Co. (SC, Dec. 14, 1943, 11. The ad ran for 2 weeks.) “This home is FHA financed and in restricted sub-division.” Williamson Realty Co. (SC, Jan. 20, 1944, 9) “Lots in Bolsa Knolls. Restricted Tract” Arthur Trigenza. (SC, Jan. 22, 1944, 11) “Choice Lot — Archer Sub-division Talbot St Adjoining Junior College Restricted” John O. Breschini. (SC, Jan. 27, 1944, 9; July 7, 1944, 9) “Modem three-room apt on rear of large lot in restricted subdivision.” R.W. Parker, realtor. (SC, July 19, 1944, 9) 7-room home, with 4 bd, in “restricted Connely tract” Clement Dow, Realtor (SC, Aug. 18, 1944, 13) “Beautiful modern 5-room Home . . . in restricted district with all nice homes.” (SC, Sept 22, 1944, 9) “House on Corner Lot. Restricted district. . . . FHA loan.” (SC, Oct. 24, 1944, 9) “Would you like a really nice 5 room modem home, located on a corner lot in a restricted district in Alisal surrounded by other nice homes?” Clement H. Dow, realtor (SC, Oct. 24, 1944, 9) “Gabilan Acres. 2 ½-Acre Tracts six miles from Salinas. Fully restricted.” Dayton-Johnson Co. (SC, Nov. 20, 1944, 13) “4 Room House for sale. . . Restricted district.” (SC, Dec. 2, 1944, 11) “For Quick Sale . . . Restricted neighborhood.” (SC, March 22, 1945, 11) “A Real Good Buy . . . in restricted district.” Salinas Valley Realty Co. (SC, March 26, 1945, 9; April 19, 1945, 11) R.W. Parker, realtor: “Immediate Possession . . . Restricted neighborhood.” (SC, March 30, 1945, 9) C.M. Brownlee, realtor: “In Acacia Park . . . Restricted area cross from High School property assuring increased values.” (SC, April 11, 1945, 9) W.D. Blades, realtor: “A Real Home . . . restricted residential area.” (SC, May 19, 1945, 11) Williamson Realty Co.: “Possession today . . . **Not race restricted.** This is a buy at \$5650.” (SC, June 1, 1945, 9) C. M. Brownlee: “In Restricted Acacia Park” (SC, June 5, 1945, 11) Frank E. Faustino, realtor: “Mansion on a Lake, Nearby . . . In restricted area.” \$17k (SC, June 7, 1945, 13) Williamson Realty Co.: “High School District. Attractive 6 room home in restricted district.” \$8500. (SC, Aug. 9, 1945, 13) By Aug. 23, they’d cut the price to \$8000, but still kept the “in restricted district” prominently displayed. (SC, Aug. 23, 1945, 13) Scott Lumber Co. advertised “Pacific Park” as “Your post-war dream home . . . a location convenient to the business district, yet far enough removed to be away from the noise, dust, and heavy traffic . . . a wide, well paved st, with beautiful shade trees as curb plantings. . . . within a short distance of the schools, and in a restricted area.” (SC,

Sept. 10, 1945, 12) Edith M. Blohm Co., realty: “Boronda District. \$3750.00. Small down payment. 4 room furnished house, garage, pressure system water supply. **Mexicans or Filipinos can buy.**”⁵⁷ (SC, Sept. 21, 1945, 13) Clement H. Dow: “New 3 Bedroom Home. Nearly completed in a new fast developing district in Alisal. . . . Restricted district.” \$9000 (SC, Oct. 16, 1945, 17) Scott Lumber Co. “Pacific Park . . . Here are homes that follow definite restrictions — set up to protect YOUR investment — and increase its value — for years to come.” (SC, Oct. 23, 1945, 16) Large New 3 Bedroom Home. In the new restricted East Side Homes Tract in Alisal . . .” (SC, Oct. 29, 1945, 13) R.W. Parker, realtor: “Lots: A large variety of choice residential lots located in restricted subdivisions.” (SC, Nov. 29, 1945, 17) “Immediate Possession . . . this is a new home in a new restricted sub-division” (SC, Dec. 3, 1945, 13) G.L. Macartney, realtor: “We have some residential lots in the Airport Tract at \$850 . . . All restricted for your protection.” (SC, Feb. 25, 1946, 11) R.W. Parker advertised “Residential Lots Several suitable for single family dwellings in restricted locations.” (SC, April 15, 1946, 13) C. Norman Trout, realtor, “New Home . . . Restricted District.” (SC, May 13, 1946, 15) Jos. R.H. Jacoby, realtor: “La Selva Beach on Mont Bay . . . Sensibly Restricted.” (SC, May 13, 1946, 15) “2 Bedroom furnished home for Sale. . . Restricted dist.” \$10,000 (SC, June 3, 1946, 15) C.M. Brownlee, realtor: “One residential lot 60X115 in restricted district.” (SC, June 3, 1946, 15) George Gardner, realtor: “Good Residential Lot In restricted district.” (SC, July 1, 1946, 11) C.H. Dow-V.O. Purdy, realtors, “5 Room Home. . . . Restricted district.” (SC, July 29, 1946, 11) J.A. Riggan, realtor. “Lots \$100.00 each in restricted dist on Garner st.” (SC, Aug. 19, 1946, 11) George Gardner, realtor: “Immediate Possession Restricted district.” (SC, Aug. 26, 1946, 13) Joe H. McPherson: “10 Lots for sale in Sherwood tract not restricted against business and no race restriction.” (SC, Oct. 21, 1946, 15) Williamson Realty Co.: **NOT RACE RESTRICTED** Excellent 2 bedroom home on good street.” \$9750. (SC, Oct. 28, 1946, 15) Sayers and Son, “**NO RACIAL RESTRICTIONS** - We have two nice homes which are eligible for G.I. Loans.” (DPH, Jan. 24, 1947, 10) “For Sale — Large restricted lot . . . Carmel.” “Three beautiful connecting residential lots on Asilomar. . . One of the best restricted sites in Pacific Grove.” (DPH, Feb. 8, 1947, 8) M.W. Crowley, realtor: “\$6,500. **NO RACIAL RESTRICTIONS**” (DPH, Feb. 8, 1947, 8) “\$12,000 5 room new modern furnished home in a restricted district between the golf course and the notion.” “\$13,000 5 room new modern home in highly restricted district.” (DPH, Feb. 8, 1947, 8) E.H. Traxler: “Residential Lots in the restricted and exclusive Loma Del Robles Tract . . .” (DPH, Feb. 8, 1947, 8) “For sale — Large restricted lot, ideal home site . . . Carmel” (DPH, Feb. 8, 1947, 8) Lonitz Realty Co.: “\$8500 . . . take G.I. Loan. Brand new home in restricted dist.” “\$650 down .

⁵⁷This is one indication that African-Americans were not the only ones who were restricted from buying.

. . full price \$1450. No restrictions.” (*DPH*, Feb. 8, 1947, 8) Dinkle and Smith, realtors: “\$2000 Down . . . in restricted area.” (*DPH*, Feb. 14, 1947, 10) “For Your Future homesite choose a lot in Del Rey Woods . . . Restricted.” (*DPH*, Feb. 20, 1947, 10) “Open for Inspection . . .in restricted residential section, next to Ord Village.” (*DPH*, Feb. 21, 1947,10) “A \$16,000 — Pre-War built home for \$12,750. . . in restricted district of Pacific Grove.” (*DPH*, Feb. 22, 1947, 8) “. . . beautiful new two bedroom home, restricted district, Del Monte Heights.” (*DPH*, Feb. 22, 1947, 8) “Two [b]edroom home in restricted area near airport.” (*DPH*, Feb. 24, 1947, 10) M.W. Crowley, realtor: “Beautiful lots overlooking Monterey Bay for only \$1,150, and in a restricted dist.” (*DPH*, Feb. 25, 1947, 12) “Wanted — **Colored** — A few trailers for rent. Also room. New select **colored colony in Seaside.**” (*DPH*, Oct. 10, 1946, 14) “**Colored Folks** attention. Five individual family units for sale, furnished. Arranged on 12 lots in Seaside.“ (*DPH*, Oct. 18, 1946, 10) “Attention! Mr. and Mrs. GI 50 F.H.A. Homes Being Completed in Desirable, Highly Restricted Glen Haven Park Alisal’s Finest Subdivision” (*SC*, March 1, 1947, 2) ‘Bill’ Williamson, Realtor: “Choice lots restricted subdivision” (*SC*, March 1, 1947, 8) “Lot for sale . . . Del Rey Woods, restricted area.” and “I have an exceptionally good deal on a low priced 2 bedroom G.I. home . . . restricted area.” (*DPH*, March 3, 1947, 10) “**No racial restrictions** on this three room and bath home located on Laurel Ave. in Pacific Grove. Priced right at \$2,000.” (*DPH*, March 5, 1947, 10) “**Colored Buyers** — Contact this office at once. Best built 2 bedroom home we have seen lately. . . . Price \$10k. See Allen, Realtor.” and “\$13,000 5 Room New Modern Home in Highly Restricted District” advertised by M.W. Crowley. (*DPH*, March 8, 1947, 8) “Loook — Veteran! Here is a brand new, well built 2-bedroom home with a \$6,500 G.I. Loan already granted. . . . Beautiful home, restricted district, has everything. See Allen, Realtor.” (*DPH*, March 10, 1947, 10) “Lots, Lots, and Lots of Lots. . . . Two new restricted areas.” Gordon Coats, Real Estate. (*DPH*, March 14, 1947, 10) “Corner Lot, Lakeview Terrace, Seaside. Excellent building site, restricted.” (*DPH*, March 21, 1947, 14) “Distress Sale — this is no Seaside junk, but a well built 2 bedroom home in a very good dist in East Monterey, built by a reputable contractor and just 5 years old. **All white people around** . . . Less than \$6000.” (*DPH*, March 22, 1947, 10) “New Homes in Oak Knoll tract. . . Large lots, highly restricted.” Sayers and Son Realtors. (*DPH*, March 27, 1947, 14) “Attractive, low priced G.I. home for sale. Ord Terrace, restricted.” \$6,250. Ed Harget. (*DPH*, March 28, 1947, 12) “Home for Sale — Good neighborhood, restricted district. East Monterey” \$6100.⁵⁸ (*DPH*, March 29, 1947, 10) “For Sale — 2 bedroom home . . . restricted district” \$18,500. (*DPH*, April 8, 1947, 12) “Choice Lots — Monte Regio. . . . Highly restricted. . . . Ocean view.” Sayers and Son. (*DPH*, April 9, 1947, 12) “Lots, Oak Knoll Subdivision. First Time

⁵⁸This makes it clear that “restricted” isn’t a synonym for a nice area.

Offered for Sale. Restricted and zoned district.”⁵⁹ C.R. Ballard. (*DPH*, April 9, 1947, 13) “For Sale — New two bedroom house . . . in restricted district in East Monterey, on Jessie St.” (*DPH*, April 10, 1947, 14) “For Sale — New two bedroom house on 40x150 lot in restricted district.” \$6100. and “2 bedroom house in restricted residential zone.”⁶⁰ Preble and Nickle. (*DPH*, April 15, 1947, 10) “Due to illness owner must sell beautiful home . . . Restricted district.” and “Lot for sale in Pacific Grove. Restricted area.” (*DPH*, April 21, 1947, 11) “For Sale — New two bedroom house on 40x100 lot in restricted district.” \$6100 and “Will exchange rental of six room house, restricted, for smaller house zoned for business.” (*DPH*, April 22, 1947, 13) “Lots Country Club Heights Pacific Grove . . . A limited number of fine residential lots in a restricted neighborhood.” and “\$1000 down on brand new 2 bedroom home in restricted district.” Lonitz Realty Co. (*DPH*, April 25, 1947, 13) “Badly in need of small house, 3 or 4 rooms. **Colored** Sgt., wife and eight year old girl.” and “\$12,500 with view of the water and golf course . . . Large lot, paved street and in a restricted district.” (*DPH*, April 29, 1947, 13) “Wish to exchange 5 room modern home in restricted district in Sacramento, children acceptable, for similar one in Carmel, Monterey or Pacific Grove for July and August.”⁶¹ and “Extra! Extra! If you are looking for a Cheap house read no further. If you want a beautiful home in a restricted area, See Me At Once.” Seaside. Ed Harget. (*DPH*, May 7, 1947, 15) “Reduced to \$5800 for quick sale! New two bedroom house on Jessie St., off Lakeview Ave., East Monterey, in restricted district.” (*DPH*, May 10, 1947, 11) “For Sale in Seaside, nice two bedroom house, furnished. . . . **No racial restrictions.**” \$3750. Ed Harget⁶². (*DPH*, May 14, 1947, 13) “**Colored Folk** — Here is your chance to buy a new 2 bedroom home on Maple St.” East Monterey Properties Co., Seaside. (*DPH*, May 27, 1947, 13) “**Colored Folks** — New modern two bedroom home, fine location. See Mr. Chapman.” (*DPH*, June 3, 1947, 11) “Locate in New Monterey with beautiful view of bay . . . Also have some lovely homesites in restricted areas.” Gordon Coats, realtor. (*DPH*, June 4, 1947, 13) “Only \$800 down buys a 2 bedroom house in Pacific Grove . . . **No racial restrictions.**” \$4,250. George W. Decker, realtor. and “Beautiful old oak tree for sale, \$1650. Included is a 60x120 foot lot. Highly restricted and inside Monterey city limits . .

⁵⁹This ad shows that “restricted” isn’t a synonym for “zoned.”

⁶⁰This ad shows that “restricted” isn’t a synonym for “residentially zoned.”

⁶¹This ad implies that the restrictions have nothing to do with any improvements that a homeowner would want to make.

⁶²This ad shows that some realtors handled both racially restricted and unrestricted homes, which again implies that racial restrictions were more a matter of general community attitudes than of the preferences of a few real estate agents.

.” Sayers and Son. (*DPH*, June 6, 1947, 15) “For Sale — \$600 lot 62x120 in restricted Ord Terrace.” (*DPH*, June 7, 1947, 9) “Colored Folk — I have for sale a new 2 bedroom home. Very reasonable. . . . Mr. Chapman.” (*DPH*, June 12, 1947, 9) “For Sale — Two lots in restricted Ord Terrace.” (*DPH*, June 15, 1947, 11) “Please read this ad . . . highly restricted residential district, with paved streets, concrete sidewalks, beautiful homes all around it.” \$15,000.⁶³ M.W. Crowley, Pacific Grove. (*DPH*, June 19, 1947, 9) “G.I. Transferred — Will sell new home in restricted neighborhood.” \$8500. Sayers and Son. (*DPH*, June 25, 1947, 13) “Villa Del Monte Lots — We have three large lots in restricted court for sale.” Sayers and Son. (*DPH*, June 30, 1947, 11) “For Sale — Newly built ranch house type . . . in Seaside. Highly restricted tract.” \$8750. (*DPH*, July 1, 1947, 13) “Price Reduced \$1000. Brand new two bedroom house. . . . House in new restricted district of Ord Terrace.” \$7500. (*DPH*, July 2, 1947, 13) ”A Darling — Here’s a New home for only \$8500 . . . Large comer lot in highly restricted subdivision.” Sayers and Son. (*DPH*, July 8, 1947, 13) “For rent — 6 room house in restricted location in Pacific Grove.” and “Something Nice in a G.I. home now being finished in a restricted subdivision, close to town.” Sayers and Son. (*DPH*, July 9, 1947, 11) “Want to rent a room with kitchen privileges, or cabin with kitchenette. **Colored** working couple.” and “Outstanding valueLarger corner view lat in best restricted district near golf course.” M.W. Crowley. \$9000. (*DPH*, July 11, 1947, 11) “Look! Open For inspection. Immediate possession. **No racial restrictions.**” \$13,500. Gordon Coats, realtor. (*DPH*, July 14, 1947, 11) “Sacrifice good 2 bedroom house . . . in unrestricted dist, 1045 Maple St., Seaside.” \$3800. Whitaker Real Estate. (*DPH*, July 15, 1947, 11) “For Sale — Four room house with two bedrooms . . . on two large lots in restricted neighborhood.” (*DPH*, July 17, 1947, 15) “Lot for Sale — Monte Regio district in back of high school. Restricted district.” \$1400. (*DPH*, July 21, 1947, 11) “In New restricted subdivision . . . Sunrise St. in E. Alisal. Geneva Kennedy.” and “Beautiful 6 room home. Restricted area.” Bruce E. Baird, realtor. and “Nice Clean 5 room house Restricted.” J.A. Campbell, realtor. (*SC*, Aug. 1, 1947, 12) “Attention. Lots to be subdivided. **No race restrictions to Filipinos, Chinese or Mexicans.**” S.M. Sabio, realtor, Salinas. and “\$6000 3 bedroom house . . . **Suitable for any nationality.**” and “\$5000 New 3 room home in East Salinas District. **Can be sold to any nationality.**” Both offered by Birch W. Moore, realtor. (*SC*, Sept. 1, 1947, 10) “Choice Lot near Junior College, restricted district.” (*SC*, Oct. 1, 1947, 14) “Immediate Possession. Very nice FHA 2 bedroom house . . . Located in restricted district.” \$7900. W.R. Gill, realtor. (*SC*, Dec. 1, 1947, 18) “Plan for real Living at Beautiful Mission Park” — a full page ad w/ a map. “**The same restrictions will prevail here as in any other high class subdivision in the city [Salinas], racial restrictions, etc.**” (*SC*,

⁶³This ad again implies that “restricted” is not being used as a synonym for a residential or nice neighborhood.

Dec. 6, 1947, 12; March 12, 1948, 3) “Motor Court Location . . . **No race restrictions**” C.H. Dow, V.O. Purdy, realtors. (SC, March 1, 1948, 14) “Vacant. Furnished 2 bedroom home. . . Restricted district.” \$8600. W.R. Gill, realtor. (SC, April 1, 1948, 22) “Special \$1700 cash for lot in restricted subdivision . . .” Lillian M. Blades. (SC, May 1, 1948, 10) “A Sleeper. “Beautiful 2 bedroom home . . . restricted dist.” \$9500. W.R. Gill, realtor. (SC, May 1, 1948, 11) “East Salinas \$1500 down payment will buy this \$9000, 2 bedroom home. Located in new restricted subdivision . . .” Dow and Purdy, realtors. (SC, July 2, 1948, 12) “Pacific Park Recently completed, modern dwelling in a choice restricted residential dist.” John O. Breschini, realtor. (SC, Sept. 29, 1948, 3) “Two 3 bedroom Homes. In good restricted district.” Ken C. Bozarth, realtor. (SC, Oct. 1, 1948, 16) “Dandy Buy — Duplex — **Not Race Restricted**” Tindells’ Realty Co., Salinas. (SC, Oct. 1, 1948, 17) “Duplex. Modern construction. Restricted district.” \$11.5k. Westmoreland and Lee, realtors. (SC, Nov. 1, 1948, 18) “Small Down Payment Nice clean 2-bedroom house . . . Restricted.” J.A. Campbell, realtor. (SC, Nov. 1, 1948, 19) “Announcing Tierra Verde Hills . . . Restricted” A.B. Burdan. (SC, Nov. 26, 1948, 2) “By Owner. New 2 bedroom home. . . . Restricted district.” (SC, Dec. 1, 1948, 22) “Large 2 bedroom home . . . restricted district.” and “Large 3 bedroom house with attached garage . . . **No race restrictions.** \$8600.” Lillian M. Blades, realtor. (SC, Jan. 3, 1949, 17) “Home and Lot in Boranda Dist. Full price only \$3,300. . . . **Unrestricted trace for race . . .**” (SC, April 1, 1949, 18) “Sunrise Street. 5 room home, F.H.A. constructed. Restricted district.” \$6500. Gill Agency. (SC, July 1, 1949, 15) “Marion St. Beautiful restricted residence lot” Salinas Valley Realty Co. (SC, Nov. 1, 1949, 17) “For Sale By Owner New 2 Bedroom Home Located at Castroville on Cypress street in Highland Tract. . . Restricted area . . .” \$9900. Square Deal Lumber Co. (SC, Nov. 2, 1950, 28) “Your Country Home . . . On Old Stage Road Adjoining the Uhl Ranch . . . Secluded — Restricted — out of the Fog” Salinas Valley Realty Co. (SC, Nov. 10, 1950, 18) “Small Neat Home With Guest Cabin, Hyland Drive. **Mixed race district.**” \$5500 Tindells’ Realty Co. (SC, Feb. 13, 1951, 19) “By Owner Two Bedroom Home . . . Restricted neighborhood. . . . 118 Williams Rd.” (SC, March 2, 1951, 14) “Beautiful Salinas Valley . . . Do you want Good Neighbors? You will find some of the best people living here or with the intention of building. As this subdivision is restricted you will always be protected.”⁶⁴ A.V. Rianda, Jr., Realtor (SC, June 2, 1951, 11) “Lovely home three spacious bedrooms, two bathroomsChoice location in a restricted subdivision.” John O. Breschini (SC, Aug. 17, 1951, 13; Sept. 5, 1951, 17) “No agents need apply. For sale by owner. Nice 2 bedroom home in quiet restricted Alisal neighborhood.” (SC, Sept. 5, 1951, 16) “College Park It is with Pleasure that We Announce the Opening of One of the Nicest Subdivisions in Salinas . .

⁶⁴This ad implies, with its stress on “neighbors” and “best people,” implies that the restrictions are on people.

.A Truly Superior Neighborhood for Your Children in the Exclusive, Restricted Subdivision.” (SC, Sept. 24, 1951, 24) “Lorimer Street . . . on a choice lot in a restricted subdivision.” John O. Breschini. (SC, Nov. 28, 1951, 4) “I have a nice 1-bedroom home. No restrictions. \$6000” Birch W. Moore, realtor. (SC, Jan. 9, 1952) “2 BR — Boronda Dist . . . unrestricted.” Richardson-Aitken Agency and “Large unrestricted lot.” C.F. Ledbetter, realtor. (SC, Feb. 6, 1952, 16) “House Movers Have an unrestricted lot . . .” C.A. Lee, realtor (SC, Feb. 6, 1952, 17) “No Restrictions three bedroom home, incomplete . . .” Brich W. Moore, realtor. (SC, Feb. 13, 1952, 16) “Rider Street Unrestricted lot with right-of-way.” C.F. Ledbetter, realtor. (SC, Feb. 20, 1952, 22) “Maple Park No. 3 Quality-built home in an exclusive and highly restricted area.” \$18,000 Jack Prader, realtor. (SC, Feb. 20, 1952, 23) “Here’s a good Buy A large 3 room home on corner lot. Unrestricted district. \$4500. R.D. “Dick” Logue, realtor and “Look at This One Three Bedroom 6 room home . . . in good restricted district.” \$14,500. and “\$4,950 — 1 bedroom house. Large lot, no restrictions.” Birch W. Moore, realtor. (SC, March 26, 1952, 18) “Castroville Special. Two bedroom house . . . unrestricted.” \$3300. R.D. “Dick” Logue, realtor. (SC, April 2, 1952, 22) “In Alisal. Two bedroom home with 1200 sq. ft. . . .Not restricted.” \$11k. A.T. Westmoreland, realtor. (SC, April 9, 1952, 24) “For Sale: Lot 50 x 100 feet with small cabin . . . Not restricted.” \$1900. and “Boronda District Over 1/3 Acre on Good County Road . . . **Not race restricted.**” \$1200 (SC, April 16, 1952, 22) “Only Three Building lots left in restricted subdivision.” Bruce E. Baird Co. (SC, April 16, 1952, 23) 3 advertisements of E.M. Moulton Realty: “Pacific Ave. 2 bedroom house . . . Unrestricted.” \$4250. and “Income Prop. 2 bedroom home, 3 rentals, small down payment. Unrestricted.” and “2 bedroom home, furnished . . . Unrestricted.” \$6500 (SC, April 23, 1952, 23) “Natividad Rd. Practically new small 2 bedrm. home. . . .Unrestricted.” \$8500. C. Norman Trout, realtor. and “Nice 1 bedroom home with guest house. . . . Unrestricted.” \$6400 E.M. Moulton, realtor. (SC, May 14, 1952, 21) “One, 2 BR & 2 3-rm. rentals. Partly furn. Gross income \$107.50 per mo. No restrictions.” (SC, May 21, 1952, 22) “3 Bedroom — Unrestricted \$4750. Not a mansion, but a very livable home in an unrestricted area.” (SC, July 9, 1952, 18) “Santa Clara St. Immediate possession. . . . Unrestricted.” \$5000. R.W. Parker, realtor. (SC, Aug. 6, 1952, 16) “1 Bedroom Furn. \$3500. Corner lot . . . Unrestricted.” D.M. Campbell, realtor. (SC, Feb. 4, 1953, 18) “Two Bedroom home, restricted area in Alisal.” (SC, March 11, 1953, 20) “New Low Down payments . . . No. 588 — \$1200 Down — 3BR — Unrestricted” \$8800 Richardson-Aitken, realty. (SC, May 6, 1953, 20) “Real Estate Wanted . . . Lot Zoned for business or lot in unrestricted area.”⁶⁵ (SC, May 27, 1953, 27) “Not Restricted. Very clean 2

⁶⁵This may imply that at times “restricted” had to do with zoning restrictions, but the fact that nearly all of the advertisements were for homes, and that restrictions were often mentioned in addition to the fact that the house was said to be in a residential area or subdivision shows that

bedroom home. \$8500.” Birch W. Moore, realtor. (*SC*, July 1, 1953, 29) “Not Restricted Area — Nice clean refinished 2 BR home. \$8500.” Harold Thornton, realtors. (*SC*, July 15, 1953, 18) “New, Country Two Bedroom Four Room House North of Salinas. . . .No restrictions.” \$6240. Tindells’ Realty. (*SC*, Aug. 31, 1955, 21) “Unrestricted For Sale by owner. In Virginia acres on Boronda Road . . .” and “Hunting Grounds 640 acres of exceptionally good hunting grounds, close to National Forest and restricted area.” Frank La Franchi, realtor. (*SC*, Sept. 22, 1955, 30) “Two or 4 ½ acres — Level land, close to the posse grounds. Restricted residential area.” C.A. Lee, realtor and “**No Racial Restrictions** This spacious 1 BR house, Boronda Rd. w/ low down payment is a buy at \$6200.” Ruby Wallace realty. (*SC*, Nov. 21, 1956, 14) “Come See the ‘Astronaut Home’ . . . 4 bedrooms and large family room on 3/4 acre lot in a restricted subdivision of lovely homes.” \$22,000. Dale Realty. (*SC*, Feb. 1, 1964, 13) “By Owner. Outstanding 7 1/3 acres for a country home in restricted area.” (*SC*, March 2, 1964, 18) “Residential Lot Now available a limited number of residential lots in the Pacific Park sub-division. Proper restrictions for your home protection.” John O. Breschini, realtor. (*SC*, March 2, 1964, 19) 1/3 page add for La Joya Heights, “A carefully planned subdivision . . . Restricted for your home value protection.” John O. Breschini, realtor. (*SC*, June 4, 1964, 31) Apartment rental in Castroville to “**Quiet Mexican family only**. \$75.” (*SC*, Jan. 2, 1969, 33)

That some more liberal citizens in Monterey County were both aware of and concerned with the problem of restrictive covenants is indicated by the following announcement:

“Salinas residents concerned with the problem of housing racial minorities have been invited to attend a meeting on the subject at 8 p.m. Monday at the Girl Scout house in Carmel.

“Frank Sinatra, starring in the highly effective movie short, ‘The House I Live In,’ will provide half of the double bill-program, which is sponsored by the Interracial Council of the Monterey Peninsula.

“The other part of the program will be an address by Edward Howden of San Francisco on the subject of restrictions in property deeds directed at racial minorities. Election of officers and adoption of by-laws also will take place.

“Realtors especially are urged to attend and join the discussion on the controversial minority housing problem, according to Mrs. Joseph Schoeninger, secretary.”⁶⁶

the term generally did not mean “zoned for business or residence.”

⁶⁶*SC*, Sept. 26, 1946, 5.

After the state legislature finally passed the Rumford Act prohibiting racial discrimination in the sale or rental of housing in 1963, Monterey County realtors enthusiastically joined the campaign to overturn the Act by passing Proposition 14, which carried Monterey County by 58-42. They preferred to campaign through newspaper ads, rather than public discussions. When the Salinas NAACP scheduled a debate on Prop. 14 between a representative of the California Real Estate Association and a former State Vice-Chairman of the Mexican-American Political Association, Louie Garcia, the realtors' group first agreed, then refused to participate, explaining that they had not expected the meeting to be open to the public. A writer to the *Salinas Californian* spoke for many whites when he said he did not understand "how in hell that pack of idiots in Sacramento ever permitted such a farce as the Rumford act to become law in the first place. Was it because [State Assemblyman Bryon] Rumford is colored? . . . Do we fear public opinion and world opinion so much that we must force a 'Civil rights' bill and a disgusting 'Housing Bill' down the throats of the American people?" Neighborhoods were so segregated, wrote a consultant to the Planning Department of the City of Monterey in 1968, that school integration in the Monterey Peninsula School District was an "almost insurmountable" task.⁶⁷

But segregation represented a far less onerous discriminatory burden than labor camp housing. Housing for migrant or even permanent agricultural workers in Monterey County was often virtually medieval. During the period of the bracero program, and despite explicit and

⁶⁷SC, Sept. 19, 1963, 7; Jan. 4, 1964, 4; Jan. 6, 1964, 5; March 4, 1964, 2; Oct. 30, 1964, 7 (letter to editor); Nov. 2, 1964, 26; Elaine D. Johnson, "A Sociological Study of the Monterey Area," unpublished paper in Steinbeck Library, Salinas.

humane federal and state standards, housing was created from “barns, tool sheds, and even chicken coops and packing sheds.”⁶⁸ Often, there was no heat or faulty heating, and migrants had the annoying habit of dying from fires or gas fumes.⁶⁹ From the 1940s on, some migrants were housed in tents, with the blessings of the wartime federal Farm Security Administration and later of the Monterey County Planning Commission.⁷⁰ By 1956, there were 220 labor camps in the county, most serving men without families and, according to State Health Department inspector Harold W. Douglas, “about 90%” of the camps housing Mexican nationals. Labor camps in the city of Salinas alone had a capacity of nearly 4000 people.⁷¹ Although county planners acceded to pressure from homeowners not to locate camps too close to residential areas, they granted a permit to establish a camp across from a cattle feed yard. According to the *Californian*, “Planners considered offensive odors and flies which might emanate from the feed yard, then stipulated that screens be part of the building’s accessories.” Another site that the planners approved for the future was on top of the current Salinas city dump.⁷²

Throughout the Salinas Valley, elected officials and voters opposed efforts to establish public housing for agricultural workers. Thus, in 1959, voters turned down a proposal to authorize a low-rent housing project in Alisal (now part of Salinas) by more than 4 to 1. In

⁶⁸SC, Feb. 4, 1943, 9 and Dec. 13, 1952, 3A, for the unenforced standards; *DPH*, Sept. 8, 1974 for the reality.

⁶⁹SC, March 8, 1943, 1; Nov. 2, 1948, 1; Jan. 28, 1959, 1.

⁷⁰SC, Feb. 4, 1943, 9; June 13, 1956, 20.

⁷¹SC, July 13, 1956, 2; Dec. 4, 1956, 4.

⁷²SC, Dec. 4, 1956, 4; Dec. 11, 1956, 4; Dec. 14, 1956, 1; Dec. 18, 1956, 1; Feb. 19, 1957, 1; April 9, 1957, 2 (feed lot); Feb. 1, 1961, 17 (dump).

Soledad, after a worker choked to death in a private labor camp, health inspectors closed the camp, which had “very dirty” bunkhouses, toilets, and showers, broken windows, urine-stained mattresses, and unclean food areas. By 1966, the town’s only public housing for migrants was the former camp for prisoners of war during World War II. It had no indoor plumbing, family units, or privacy. Still, Soledad Mayor Peverini resisted taking federal money to build new housing because that would “discourage private enterprise.”⁷³

A 1971 study by the Monterey County Housing Authority of camps converted from barracks-style lodging for single men during the bracero era to housing that families could stay in after 1967 found that “There has been little concern for overcrowding and very inadequate conditions in most of these camps beyond an attempt to solve the minimal safety and sanitary regulations.”⁷⁴ Some dwellings housed from 15 to 20 persons, with parents and children three or four on a mattress, which was often placed on the bare cement floor. In 1974, one State Health Inspector was responsible for the county’s then-136 labor camps, as well as 66 nurseries, pesticide poisoning, and sewage disposal. He spoke no Spanish. In a newspaper interview, he acknowledged that anyone living in a camp who complained might be evicted.⁷⁵ Between 1973 and 1978, more than a third of the labor camps closed. Many which were shut down were, according to the County Director of Environmental Health, Walter Wong, “unfit for human

⁷³Board of Supervisors Minutes, March 16, 1959, vol. 10, p. 143 for the referendum; *SC*, April 1, 1965, 17; April 2, 1965, 15; *Soledad Bee*, June 15, 1966, July 20, 1966.

⁷⁴*SC*, Jan. 14, 1972, 1.

⁷⁵*DPH*, Sept. 8, 1974.

occupancy.”⁷⁶

Probably the most infamous farm labor housing scandal in Monterey County history was the 1985 “Ranch of the Caves” expose at a North County strawberry farm owned by Jose Ballin. According to Lydia Villareal, the lead lawyer for CRLA in a class action lawsuit about conditions on the ranch, the workers “were living in holes in the ground, like rabbits. The workers said that when they arrived, Ballin handed them a shovel and told them to dig themselves a home. The caves were about five feet long, five feet wide, and two-and-a-half feet high. In some cases three or four workers slept in the same cave.” Even more horrifying was the bland bureaucratism of the Monterey County Health Department’s description. On another of Ballin’s ranches there were

50 to 60 farm workers living in storage sheds, pick-ups, campers, makeshift cardboard and tin shacks, outhouses and truck bodies; not adequate or approved toilet facilities; no potable water from an approved water system; all food preparation areas were sub-standard; an accumulation of garbage, trash and refuse scattered throughout the complex; no proper facilities for the disposal of garbage and trash; sleeping and living areas did not conform with the Uniform Housing Code, California Health and Safety Code and California Administrative code; human waste was present inside and outside of the various living areas; pesticides, fertilizers and poison baits were stored within the living, sleeping, and cooking areas; open pesticide containers and spilled poison baits were within the living, cooking and sleeping areas; occupants ate their meals while sitting on and around pesticide containers . . .”

In an effort to insure that such conditions were not publicized, Mr. Ballin had hired only young, undocumented workers, whom he paid less than the legal minimum wage. The workers referred to one of Baillin’s properties as “the ranch of the caves.”⁷⁷ Six years later, authorities unearthed

⁷⁶SC, April 15, 1978.

⁷⁷Both quotes from Miriam J. Wells, *Strawberry Fields: Politics, Class, and Work in California Agriculture* (Ithaca, N.Y.: Cornell University Press, 1996), 210-11. The health

similar living conditions on another strawberry farm, this one in Prunedale. 100 field workers were living in a shanty camp of plastic-covered lean-tos, strawberry flats, and caves. There were no toilets, and there was neither running water nor garbage disposal.⁷⁸ Most of the workers were from the Mexican state of Oaxaca.

E. Employment Discrimination: “I don’t feel like working for a wetback.”

Issues of employment discrimination and affirmative action agitated the public institutions of Monterey County from the late 1960s through the early 1980s, at exactly the time when the board of supervisors was unifying the courts, for liberal laws and court decisions opened opportunities for minorities to take larger roles in the community. Although correlation never proves causation, the timing and vehemence of these struggles suggest the pervasiveness of ethnic issues in the period when the crucial decisions about the courts were being made.

Employment discrimination was traditional in Monterey County, and it lasted for a long time. In 1968, for instance, a consultant to the Planning Department of the City of Monterey reported that “Within the last few months (for the first time) two Negro waitresses were employed in Monterey restaurants – one, part time, according to the Department of Employment.”⁷⁹ This suggests that the conditions that produced the following ethnically-designated employment ads from the 1930s persisted, in a less public fashion:

department statement was part of the trial documents in Monterey Superior Court.

⁷⁸SC, Aug. 28, 1991, 1A.

⁷⁹Elaine D. Johnson, “A Sociological Study of the Monterey Area” (unpublished report in the Steinbeck Library, Salinas), 63-64.

Help Wanted “Experienced colored woman for general housework.” (*Salinas Index-Journal*, July 7, 1936, 7-8) “Experienced white woman wants position as cook-housekeeper. Pebble Beach references.” (*DPH*, Feb. 27, 1938, 8) Recently honorably discharged from Naval Air Service, young man describing self as “Anglo-Celtic-American” wanted “to be of service.” (*DPH*, March 7, 1938, 8) Help wanted “White woman for housework in Carmel Woods.” (*DPH*, March 14, 1938, 2) An “intelligent young Japanese man” wanted a position as “gardener and chauffeur.” and “Wanted -- Japanese housemaid.” (*DPH*, March 15, 1938, 2) “Situations wanted. Experienced Filipino couple want position as cook and maid.” and “White Couple - Cook, butler, houseman; can garden . . .” and “Filipino chef wants work in restaurant, tearoom or hotel.” (*DPH*, April 11, 1938, 8) Carmel Employment Agency could provide “White, Japanese and colored women for general housework. Chinese and Filipino cooks and houseboys.” (*DPH*, April 27, 1938, 2) “Experienced colored cook wants position” (*DPH*, May 10, 1938, 2) “Experienced colored couple want work of any kind -- housework, farmwork, by day or hour.” and “Reliable ‘white man’ to do your complete housecleaning or yard.” and “White couple, cook, butler, houseman, gardener.” and “Japan-America Employment Agency. Japanese, Chinese, Filipino.” It was in San Francisco (*DPH*, June 14, 1938, 10; June 20, 1938, 8) “Situation Wanted by Chinese 1st class cook, houseworker, butler.” (*DPH*, July 12, 1938, 8) “Ambitious, neat-appearing, single white man, 26, wants any kind of Work, full time or part time. Excellent chauffeur.” (*DPH*, Sept. 15, 1938, 8) “Wanted -- White woman for housekeeping and cooking.” (*DPH*, Jan. 17, 1939, 8) “Chauffeur. Young white man, 21 years driving experience. Careful, courteous and sober. and “Chinese cook and houseboy wants position.” (*DPH*, Feb. 8, 1939, 8) “Wanted -- Combination woman. Must be experienced, white.” (*DPH*, April 12, 1939, 10) “White Woman, experienced, wants maid work or restaurant kitchen.” and “Filipino wants steady work in private family as cook, chauffeur or houseboy.” (*DPH*, April 14, 1939, 10)

In 1946, an initiative to set up a state Fair Employment Practices Commission lost in Monterey county by 14,209 to 4062.⁸⁰

In 1973 and 1974, CRLA filed class-action suits in the Superior and federal district courts against the Monterey County government, charging that the County had discriminated against African-American, Asian, Native American, and Spanish-surnamed persons, hiring whites in preference. 21.1% of the County’s population was Spanish-surnamed, but only 8.4% of the

⁸⁰SC, Nov. 7, 1946, 1.

County government's employees were. The black proportions were 4.9% and 3%, and CRLA charged that the jobs which the 3% filled offered few promotional opportunities.⁸¹ In 1976, the county signed a comprehensive consent decree in the *Hisauro Garza* federal court suit, promising to increase minority housing by 1986 to reflect the proportion of minorities in the county's population.⁸² By September, 1979, 19.7% of County government workers were minorities, but they were concentrated on the lower rungs, holding 34.9% of the clerical and 41.9% of the service and maintenance jobs, but only 18% of the administrative and professional jobs.⁸³ In 1991, according to a County equal employment opportunity document, minorities held only 15.5% of the administrative and 37.1% of the professional jobs in the County government, but formed majorities of the clerical and service and maintenance employees. Latinos' proportion of clerical workers was five times as high as their percentage of administrators.

A federal lawsuit filed by firefighter Gilbert Padilla and LULAC against the city of Salinas repeatedly made headlines as the Board of Supervisors was voting to unify the Monterey Peninsula, North County, and Salinas Municipal Courts in 1979. During a promotion interview, Assistant Fire Chief John Reynolds had asked Padilla "what he would do as an officer if one of his men came to him and said 'I don't feel like working for a wetback.'" Asked by the city's counsel why he had put that question to Padilla, Reynolds explained that he "was testing Padilla's temperament to see if Padilla would flare up," and even though he did not, Reynolds gave him a low score on the subjectively-graded oral exam because of "his attitude, temperament

⁸¹SC, Sept. 10, 1974.

⁸²SC, Nov. 5, Dec. 3, 1976.

⁸³SC, Oct. 1, 1979.

and my general feel of the way he answered the questions.” In Padilla’s recollection, the “wetback” question had been the first asked him during the interview, and his oral examination had been filled with insults and irrelevancies. Although he had passed written exams for promotion to lieutenant six times in twelve years, Padilla had never pleased the interviewers enough to attain the position. An expert witness who examined the scoring processes on the oral examination condemned the test as biased and inconsistent. After Padilla won in federal district and circuit courts, Salinas hired an outside consultant to revise the tests. When another Mexican-American firefighter, Mario Martinez, filed suit, the parties settled out of court, the city promising to triple the number of Latino firefighters within five years. MALDEF represented both Padilla and Martinez.⁸⁴

Agitation in the school systems was perhaps even more visible. The Salinas Union High School (SUHS) and North County Union Elementary School Boards formed advisory committees on affirmative action in 1971 and 1975, respectively, but in the face of public pressure from Anglos, the Boards ignored or severely amended their recommendations. Partly to increase the proportion of minority teachers, Salinas Union brought in 52 teachers from the federal Teachers’ Corps in 1972, promising to hire half of them. The district hired less than a quarter. In 1971, SUHS set a target of 16.2% Spanish-surname teachers by 1976, but it hired only 10.2% by that date, perhaps because the district had no minority recruitment committee and made no special efforts to attract minority teachers. Although state law required every school district to have a formal affirmative action plan in place by Jan. 1, 1976, both districts refused,

⁸⁴SC, March 1, 1979, 1; May 24, 1979, 2; May 29, 1979, 9; May 30, 1979, 6; Nov. 11, 1979; Nov. 4, 1981, 1.

one trustee of the North County Board charging that affirmative action was “prejudicial and discriminatory against whites.” In that year, 31% of the North County district’s pupils were Spanish-surnamed, but only 6% of its teachers. The plan that the North County district eventually adopted contained no hiring goals, and a subsequent, more docile Affirmative Action Committee, which numbered only one minority among its sixteen members, disbanded when members failed to attend meetings.⁸⁵ Although later in 1976, a 3-2 majority of the Salinas Union High School District Board did adopt a target of 30% minority teachers, it effectively allowed the plan to lapse after two years. By 1984, 55% of the students, but only 10% of the teachers in the SUHS District were minorities.⁸⁶

F. School Segregation and Ethnic Identity: The Separate But Docile Policy

Most Anglos in Monterey County during the period of court unification seem to have opposed both efforts to integrate the schools and assertions of ethnic identity by minorities within increasingly segregated schools. Controversies over this separate, but docile policy further underline the pervasiveness of ethnic issues in the county during the 1960s, 70s, and 80s.

The substitution of migrant and permanent families for braceros in the late 1960s had dramatic effects on the schools of Monterey County. By 1967, the Salinas Elementary School District was using federal Title 1 funds to open summer schools for the 2575 migrant children

⁸⁵SC, May 29, 1974, 16; Jan. 14, 1975; April 12, 1975, 1; June 18, 1975; Sept. 12, 1975; Dec. 2, 1975; Dec. 4, 1975; Dec. 6, 1975; Dec. 17, 1975; March 19, 1976; June 1, 1976; Jan. 29, 1979.

⁸⁶SC, Dec. 19, 1975; March 30, 1976, 15; May 21, 1976; June 2, 1978; Oct. 3, 1984.

said to reside at least part of the year in Monterey County.⁸⁷ By 1969, the Gonzales Union High School District was 70% Mexican-American, with close to half of those the children of migrants, but its school board remained predominantly Anglo. When Paula Alvarez, a teachers' aide sent to Monterey County by the federal Teacher Corps, and her husband Mario, an outreach worker, organized a Mexican-American Youth Association, they were unceremoniously fired from their jobs and evicted from their rented house for allegedly teaching militancy and ethnic hatred. 500 people, said to be the largest number to have attended an educational meeting in the history of the Salinas Valley up to that time, showed up at a Gonzales Union High School Board meeting at which the Alvarezes' fate was discussed. As one trustee, Robert Bianchi, remarked in an interview, "'We're not saying at all she [Paula Alvarez] is not a good teacher,' but that, because of her political activities, she is unacceptable as a teacher in Gonzales.'" Regardless of the furor, the Gonzales Board upheld the firings, and the Alvarezes had to sue in federal district court to have a chance to keep their jobs.⁸⁸

Teacher Corps members caused controversy in Salinas, as well, where thirty bilingual teacher trainees first received approval from the SUHS Board to set up a "Latin Cultural Center" to offer counseling, recreation, and a Spanish-language program. But the Center quickly became controversial, and within a couple of weeks it was shut down until its activities could be "fully approved." When a Teacher Corps intern was suspended, partly for refusing to give the name of one of his students who exploded a firecracker in school, 250 Alisal High School students

⁸⁷SC, March 14, May 16, 1967.

⁸⁸*Soledad Bee*, March 5, 1969, 4; May 28, 1969; *Gonzales Tributne*, March 6 1969; SC, March 14, 1969, 3; March 25, 1969, 11; April 3, 1969, 18; April 4, 1969, 1 (quote).

walked out in protest.⁸⁹ In 1974, it was the students at Alisal High themselves who exploded, as the *Salinas Californian* was full of stories about fights between Mexican-American and Anglo students, Mexican-American students and Anglo teachers, and even a Mexican-American student and an Anglo vice-principal.⁹⁰ At North Salinas High School, battles over banning ethnically-oriented books used in elective courses stirred the SUHS for over a year. 2072 people signed a petition to prohibit an English course on “Literature of the Forgotten Americans” from using Piri Thomas’s *Down These Mean Streets*, and leaders of the protest movement against the book demanded the firing of the Superintendent of Schools, the Assistant Superintendent for Curriculum, and the Principal of North Salinas High for refusing to censor it swiftly enough. The School Board outlawed the book. The next year, there were challenges to Claude Brown’s *Manchild in the Promised Land* and Alex Haley’s *The Autobiography of Malcom X*. After initially banning Brown’s book, the SUHS Board set up a buffer committee to consider calls for censorship, and the Board ratified the decision of a small majority of the committee to allow both Brown’s and Haley’s books to be read.⁹¹ Ethnic problems in the SUHS became so notorious that in 1976, the U.S. Commission on Civil Rights held a hearing on them.⁹²

In Soledad, where elementary schools had become 76% Spanish-surname by 1969-70, CRLA sued in federal district court on behalf of nine Spanish-speaking children who had been placed in a class for the mentally retarded because they had done poorly on an IQ test

⁸⁹SC, Dec. 2, 1972; Jan. 15, 22, 25, 1973.

⁹⁰SC, March 8, 12, April 4, 24, Oct. 5, 7, Nov. 19, 1974.

⁹¹SC, Feb. 24, March 1, 6, 9, 15, Sept. 13, 1972; Jan. 10, March 4, 1973.

⁹²SC, March 24, 1975; March 19, 1976.

administered in English. As part of the test, the children, aged 8 to 13, were asked such questions as “When is Labor Day?” and “Who wrote Romeo and Juliet?”, and they were required to identify “C.O.D.,” “hieroglyphics,” and “Genghis Khan.” The Soledad Union Elementary School District and the State Department of Education eventually settled the CRLA’s suit before trial.⁹³ In the SUHS in 1975, 27% of all students, but 44% of the special education students had Spanish surnames, and even the Superintendent of Schools admitted that some were placed in special education programs because of their unfamiliarity with English.⁹⁴

80% of the students at the Gambetta school in Castroville had Spanish surnames, and nearly half of them spoke only Spanish or limited English. Nonetheless, when the North County school district hired a teacher to teach selected students English as a Second Language for 45 minutes a day, one trustee resigned in protest. To the astonishment of the bilingual office of the State Department of Education, the North County Board turned down \$50 million in state funds to set up a bilingual program at Gambetta. According to former North County trustee Leonard Rabe, most people in the North County area opposed “more spending for bilingual education because the district already spends more per pupil on Spanish speaking youngsters than on others – thereby shorting some deserving students. ‘Money isn’t the answer to the language problem,’ he said.”⁹⁵ CRLA filed federal suits against both the SUHS and the North Monterey County School District, alleging that the districts’ policies of tracking, teaching almost entirely in English, and hiring only a few Mexican-American teachers made Mexican-American students

⁹³SC, Jan. 8, 14, Feb. 6, 1970.

⁹⁴SC, March 19, 1976.

⁹⁵SC, March 19, Oct. 22, 1975.

more likely to drop out of school. Physical facilities in North County schools that primarily served Mexican-Americans, CRLA charged, were inferior to those in predominantly Anglo schools.⁹⁶ In 1982, North County Superintendent Raymond Smith playfully suggested that the English proficiency of Spanish-speaking students could be tested by “putting a gun to their heads and if they say ‘Don’t shoot,’ we know they can speak English.” Trustees spurned calls from several community groups to fire Smith.⁹⁷

At Salinas’s Sherwood Elementary School, 80% Spanish-surname in 1976, a controversy over celebrating Mexican Flag Day, Feb. 24, with a class-time ceremony that involved raising the Mexican flag on the school’s flagpole “rocked the community with controversy,” according to the *Californian*. The principal wanted the celebration, one of four a year in which the Mexican flag was raised at Sherwood, to take place before the beginning of school hours, but Mexican-American parents insisted on the symbolism of a ceremony that pulled kids out of class, charging that “their children are discriminated against and that not enough is done to make them proud of their cultural heritage.” Two meetings on the issue attracted 100 persons one week and 200 the next, and an impasse led to a boycott by 412 of the school’s 770 students. Although Latino parents and students eventually backed down, the incidents stimulated a backlash, with the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, and the Daughters of the American Revolution successfully pressing the school board to prohibit the flying of all foreign flags at Salinas elementary schools.⁹⁸

⁹⁶SC, Nov. 4, 1975.

⁹⁷SC, July 9, 1982.

⁹⁸SC, March 26, April 2, 5, 6,7 (second quote), 8, Aug. 14, 1976 (first quote).

Anglo parents and some school administrators staunchly opposed proposals to reduce school segregation. When the State Board of Education suggested in 1967 that local school boards might realign attendance zones to promote racial or ethnic balance, Salinas Superintendent of Schools Roy Granville denounced the proposal on the grounds that “selection of pupils to attend schools on the basis of race or family name is discriminatory. It is actually segregation.” Despite the fact that by 1971, a State Board of Education report of three Monterey County school districts found that 23 schools in those districts were racially imbalanced, the Salinas Elementary School Board refused to take any action.⁹⁹ When six years later, Superintendent Dave Tansey of the North County Unified School District proposed to head off lawsuits by pairing predominantly minority with predominantly Anglo schools in his district, there was, according to the *Californian*, a “storm of protest.” More than 70% of elementary students and 84% of high school students were already bused to school. Tansey suggested changing Echo Valley school, then a 9% minority institution serving students from kindergarten through eighth grade, into a k-3 school, and merging its attendance zone with that of Gambetta, then 74-94% ethnic minority, which would become the destination for students in grades 4-8. Likewise, under Tansey’s plan, 46% minority Castroville would be paired with 16% minority Prunedale. The 230 anti-busing (for integration) parents who turned out for a hearing at the Prunedale school greeted a call from a speaker that the school district “should thumb its nose at the courts” with “robust applause.”¹⁰⁰ In the face of the organization of a group called “Citizens

⁹⁹SC, Nov. 6, 1967, 8; Sept 23, 1971. A racially imbalanced school was one that varied by 15% or more from the district-wide ethnic percentage. The use of the term “segregation” for measures meant to combat segregation did not bother Supt. Granville.

¹⁰⁰SC, March 30, April 15, 19, 1977.

for Neighborhood Schools,” which proposed building new schools as an alternative to busing for integration purposes, the North County administration backed down, proposing to spend \$9,400 to bus a few Mexican-American students from Castroville and Gambetta to Prunedale and Elkhorn schools. CRLA answered by filing a lawsuit.¹⁰¹ The *Californian*’s summary of the efforts of the Salinas schools to integrate applied to the whole county. There was “little money and little public pressure” for integration, and district officials had neither redefined attendance zones nor started magnet schools to foster ethnic interaction, waiting instead for housing desegregation to mix the schools at some time in the distant future. It was, the newspaper declared, a “non-solution” to the problem of segregation.¹⁰²

Schools in the small South County town of Chualar provided a case study of ethnic tensions that erupted when Mexican-Americans translated their numbers into political power. Reflecting their group’s proportion among students, four of the five trustees of the Chualar Union School District elected in 1981 were Latinos, the first Latino majority on a Monterey County school board in living memory. 320 of the district’s 356 pupils were migrants. When a disagreement over bilingual education led School Superintendent Phil Crawford to characterize the leader of the school’s Migrant Parents Committee, Adalberto Margarito, as a “blackmailer and trouble maker,” the Board first backed its superintendent. But later, confronted with a week-long boycott by farm-worker parents and their children, the Board ordered Crawford to go on a temporary paid leave of absence while an administrative law judge held hearings and determined his fate. In the midst of the investigation, the superintendent resigned. (The administrative law

¹⁰¹SC, April 22, 25, 29, May 13, 1977.

¹⁰²SC, Sept. 11, 1986, 11a.

judge only partially upheld Crawford's conduct.) Reacting to the boycott and the superintendent's treatment, a group circulated a recall petition against all five members of the Board, and at the next election, at least two of the Latino trustees were replaced by Anglos.¹⁰³ Such concrete examples made it easy to predict that the immediate political future in Monterey County would be full of minority actions and majority reactions.

G. Cesar and the Judges

Monterey was a grower's county, and union organizing was always brutal. In 1936, predominantly Anglo lettuce packers -- called "Okies" or worse in Steinbeck country -- struck when contract renewal talks between the Vegetable Packers Union and the Grower-Shipper Vegetable Association broke down. The radical right-wing Associated Farmers organization then brought in a publisher and army reserve officer, Col. Henry Sanborn, to supervise law enforcement operations in Salinas during the strike. Although Sanborn held no official position, elected officials, including District Attorney Anthony Brazil, deferred to him as Sanborn unleashed what the executive editor of the *San Francisco Chronicle* referred to as "a ruthless dictatorship." "For a full fortnight," the editor went on breathlessly, "the 'constitutional authorities' of Salinas have been but the helpless pawns of sinister fascist forces which have operated from a barricaded hotel floor in the center of town." The sheriff deputized 2500 men, a substantial proportion of the non-striking male population around Salinas, and Republican Gov. Frank Merriam sent in 150 Highway Patrolmen, who used tear gas and clubs against pickets. A

¹⁰³SC, Dec. 7, 1981; April 16, 1982; Feb. 15, 22, March 2, 15, 18, April 1, 28, 1983; *Gonzales Tribune*, Nov. 2, 1983.

National Labor Relations Board report on the Salinas strike denounced the “inexcusable police brutality, in many instances bordering on sadism,” and a 27-volume report on California agriculture issued by a U.S. Senate Committee was so scathing that it effectively ended the Associated Farmers organization. But by the time the reports were released, the Salinas strike had long since resulted in an overwhelming victory for the growers.¹⁰⁴

Thirty-four years after the 1936 packers’ strike, the origin of the workers had changed and some of the tactics had become more subtle, but growers and Monterey County elected officials still collaborated to block union organizing. This time, the principal elected allies of the growers were Superior Court Judges, including former District Attorney Brazil.

Until 1970, most growers did not feel that they needed to compromise by agreeing to bring agricultural workers under the provisions of the National Labor Relations Act, with its supervised elections and collective bargaining, or to bring in controllable unions to represent their workers, in order to keep more independent unions out. There was one prominent exception. In 1961, the United Packinghouse Workers and the Agricultural Workers Organizing Committee of the AFL-CIO picketed Bud Antle, the nation’s largest lettuce grower with farms in the Imperial and Salinas Valleys, to prove to the U.S. Department of Labor that local workers were willing to supply agricultural labor, and that braceros were not required. The Labor Department agreed and withdrew its authorization for Antle to import braceros. To prevent the

¹⁰⁴William Orville Jones, “the Salinas Valley: Its Agricultural Development, 1920-40” (Unpublished Ph.D. thesis, Stanford University, 1947), 10, n.1 (first quote), 287 (outcome of strike); Linda C. Majka and Theo J. Majka, *Farm Workers, Agribusiness, and the State* (Philadelphia: Temple University Press, 1982), 92-93 (second quote), 123-25; Kenneth James Arnold, *California Courts and Judges Handbook* (San Francisco: Law Book Service Co., 1973), 300, for Brazil’s official positions.

UPW and AWOC from organizing his workers, Antle signed a contract with the Teamsters' Union. Under the unusual terms of the contract, braceros and hourly workers were not covered, and the company was free to hire and fire workers at will. Not only did the Teamsters later loan Antle \$1 million, but having a contract with the Teamsters meant that if any other union tried to organize his workers, Antle could seek an injunction under the California Jurisdictional Strike Act, which sought to prohibit jurisdictional battles between unions.¹⁰⁵ In 1961, however, such subtlety was lost on other growers, and they expelled Antle from the Grower-Shipper Vegetable Association for the sin of allowing any union representation on his farms.

Nine years later, the success of the boycott of table grapes by Cesar Chavez and the United Farm Workers' Organizing Committee (UFWOC) changed the minds of growers of lettuce, the largest crop in the Salinas Valley. In a preemptive move the day before grape growers in Delano agreed to union representation by the UFWOC, 170 vegetable and lettuce growers in the Salinas and Santa Maria Valleys signed contracts with the Teamsters. Neither the growers nor the Teamsters bothered to consult the workers covered by those contracts. On the contrary, workers were required to join the Teamsters within ten days or lose their jobs. Since the Teamsters' contract granted the workers raises of only ½ of a cent in the piece rate each year for the next five years, it was not difficult for the UFWOC to turn out 10,000 workers in what the *Los Angeles Times* called "the most massive strike in U.S. farm labor history."¹⁰⁶

¹⁰⁵Stephen H. Sosnick, *Hired Hands: Seasonal Farm Workers in the United States* (Santa Barbara, CA: McNally and Loftin, West, 1978), 327-29; Majka and Majka, *Farm Workers, Agribusiness, and the State*, 200-02.

¹⁰⁶*Los Angeles Times*, Aug. 27, 1970, I-1; J. Craig Jenkins, *The Politics of Insurgency: The Farm Worker Movement in the 1960s* (New York: Columbia University Press, 1985), 173-78; Jacques E. Levy, *Cesar Chavez, Autobiography of La Causa* (New York: W.W. Norton &

The strike was notably violent. Shots were fired at the UFWOC headquarters in Salinas, and its office in Watsonville was bombed. Three of the union's pickets were shot and many were beaten. The union's general counsel, Jerry Cohen, was hospitalized for nearly a week as a result of an attack by a two burly Teamsters. Despite the fact that Cohen and his companions were willing and soon well enough to identify their assailants, County District Attorney Bertram Young made no arrests in this or several other cases of anti-UFWOC violence. Four years later, Theodore Gonsalves, the leader of what the UFWOC referred to as "the Teamster goon squad," pleaded no contest to five federal charges that he had illegally solicited and accepted payments from growers to bust the UFWOC's 1970 Salinas strike. He was sentenced to a year in prison.¹⁰⁷

Less dramatic, but even more effective than violence were lawsuits. The growers brought the Teamsters in not so much for their willingness to defend a soft bargain with a hard fist as for the fact that they provided a superficially plausible excuse for injunctions against the real union by grower-friendly judges. Rulings by Monterey County Superior Court judges Anthony Brazil, Gordon Campbell, and Stanley Lawson entirely shaped the UFWOC strategy in the 1970 Salinas Valley strike. The UFWOC essentially had only two weapons available: picketing and boycotting. In the first few days of the strike, the picketing and withdrawal of workers cut lettuce production in the Salinas Valley by 75%, raised wholesale lettuce prices by nearly 250%, and cost growers \$500,000 a day. But in an *ex parte* hearing (one at which the UFWOC was not represented), Judge Brazil issued a preliminary injunction banning the UFWOC from picketing.

Co., Inc., 1975), 348-49.

¹⁰⁷Majka and Majka, *Farm Workers, Agribusiness, and the State*, 204; Levy, *Chavez*, 383-85, 519; *SC*, Sept. 5, 1970, 1; Sept 7, 1970, 1.

If the Teamsters already represented the workers, Brazil reasoned, then under the state's Jurisdictional Strike Act, the UFWOC could not seek to organize them. A few days later, Brazil made the injunction permanent, brushing off UFWOC contentions that the employers had "financed, controlled, dominated or interfered" with the union under contract, actions that, under the Jurisdictional Strike Act, would have prevented him from issuing the injunction. It was hardly surprising that a grower representative welcomed Brazil's decision as "unmitigated good news." According to the *Californian*, arrests of UFWOC supporters for violating temporary restraining orders or preliminary injunctions granted to more than 55 growers filled the jail and the justice and municipal courts, where violators were actually prosecuted.¹⁰⁸ It was two years before the California Supreme Court, by a 6-1 margin, overturned Brazil's decision and implicitly rebuked him. "From a practical point of view," the Supreme Court declared, "an employer's grant of exclusive bargaining status to a nonrepresentative union [the Teamsters] must be considered the ultimate form of favoritism, completely substituting the employers' choice of union for his employees' desires."¹⁰⁹ Chavez accused Brazil of the legalization of favoritism, commenting about the judge's decision that "that's pretty much what they do down South." He fasted for six days to protest what he called Judge Brazil's "unconstitutional act."¹¹⁰

One group of pickets the judges did not discourage were those who shut down Inter

¹⁰⁸SC, Sept 3, 1970, 1; Sept. 5, 1970, 1; Sept. 9, 1970, 1; Sept. 10, 1970, 1; Sept. 16, 1970, 1; Sept. 17, 1970, 1; *Los Angeles Times*, Aug. 27, 1970, I-1; Levy, *Chavez*, 416-18, 422. Interestingly, one of the two chief reporters on the strike for the *Californian* was Judge Brazil's son Eric, a fair-minded reporter whose byline was removed from all strike stories after Sept. 4, presumably so that the paper could avoid the appearance of impropriety.

¹⁰⁹*Englund v. Chavez*, 8 C. 3d 572, 591 (1972).

¹¹⁰Quoted in Levy, *Chavez*, 339, 350-51.

Harvest for nine days. United Fruit, an international corporation whose most familiar brand name was Chiquita Bananas, had bought out eight growers and grower-shippers that produced about a fifth of the lettuce and half of the celery in the Salinas Valley in 1968, naming its holdings Inter Harvest. Highly vulnerable to a boycott of its bananas and well aware that its workers preferred the UFWOC to the Teamsters, United Fruit revoked its contract with the Teamsters five days after the strike began, and it signed with the UFWOC. In response, growers threatened to sue the company for breaching their secret collective agreement with the Teamsters and pickets shut down Inter Harvest's packing and distribution facilities. From 3 to 5 a.m., when trucks normally loaded up and left, Teamsters brandishing baseball bats and more serious weapons blocked the driveways, to be replaced in somewhat more decent hours by growers and their families, organized as "Citizens Against United." In one singular picture on the front page of the *Californian*, growers' cars, notably a Cadillac and a Jaguar, could be seen barricading the Inter Harvest warehouse.¹¹¹ No one mistook them for the vehicles of farm workers.

On the day that Judge Brazil announced his permanent injunction, Chavez called off the pickets and launched an international boycott of iceberg lettuce not marked with the UFWOC's distinctive stylized eagle. After Bud Antle obtained an injunction against the boycott, Chavez, eager to draw consumers' attention to the campaign, deliberately admitted violating the injunction, and he was tried in Monterey County Superior Court before Judge Gordon Campbell. The trial day opened dramatically with 2000 UFWOC supporters marching a mile to the court house. Inside, while UFWOC attorney Bill Carder denounced the injunction as vague and

¹¹¹Levy, *Chavez*, 412-13, 416-20; Sosnick, *Hired Hands*, 350; *SC*, Sept. 1, 1970, 1; Sept. 2, 1970, 1; Sept. 3, 1970, 1; Sept. 4, 1970, 1 (Cadillac, Jaguar); Sept. 5, 1970, 1; Sept 8, 1970, 1; Sept. 9, 1970, 1; Sept. 10, 1970, 1.

unconstitutional, Antle's lawyer Richard Maltzman pleaded for a fine for the union, but hedged on whether Chavez should be jailed, fearing to create a martyr-symbol for the boycott.

Immediately after hearing motions and arguments, Judge Campbell, a former justice court judge who had ordered the UFWOC to post a \$2 million bond for potential damages to Bud Antle, read from a long, previously prepared opinion, full of seemingly egalitarian sentiments: "If the law is to continue to have any meaning, it must continue to apply equally to the weak and the strong, to the poor and the rich, favoring neither the one nor the other. No man or organization is above or below the law. If the objective is a noble objective – and many say there is a noble objective here – improper and evil methods cannot be permitted to justify it." (The "evil methods" to which the judge referred were asking consumers not to buy non-UFWOC lettuce.) Campbell then sentenced Chavez to jail on two counts of contempt, and ordered him to remain there until Chavez had notified all UFWOC workers to stop the boycott. So angry after reading his opinion that he left the bench without remembering to impose a fine, Campbell stopped in mid-stride, turned, and announced a \$10,000 fine, \$5,000 on each count, only to be reminded by Carder that the maximum fine allowed for contempt by state law was \$500 per count. Realizing that the lawyer was correct, the judge announced the reduction to \$1000, and without returning to the bench, stalked out of the courtroom. Outside, Larry Itliong of the UFWOC told the crowd that Campbell's decision was an example of "how the growers can utilize the power to the courts to keep us poor."¹¹²

¹¹²Levy, *Chavez*, 427-28 (Campbell quote); Mark Day, *Forty Acres: Cesar Chavez and the Farm Workers* (New York: Praeger, 1971), epilogue (Itliong quote). According to Day, "Campbell was a longtime friend of some of the Salinas growers, and, as an attorney, had defended the growers in previous labor disputes." The State Supreme Court effectively waived the bond requirement, which the UFWOC could not meet. *UFWOC v. Superior Court of*

During Chavez's 20 days in the Salinas jail, he was visited by Coretta Scott King and Ethel Kennedy, the widows of Martin Luther King, Jr. and Robert F. Kennedy, respectively, as well as other notables. Crowds, often large, boisterous, and split, gathered outside the jail on many December nights, as the boycott and Chavez's appeals continued. On Christmas Eve, the California Supreme Court ordered Chavez released, pending the court's review of the case. Four months later, in a unanimous opinion, the Supreme Court ruled that the UFWOC had a constitutional and legal right to engage in "peaceful and truthful attempts to persuade the general public not to purchase a specific product or products unaccompanied by picketing."¹¹³ That a State Supreme Court headed by Ronald Reagan appointee Donald Wright should so overwhelmingly overturn the two principal decisions about the strike written by Monterey County judges indicates how pro-grower those decisions were. Still, the growers got what they wanted: The Monterey county judges' decisions broke the momentum of the UFWOC after the grape boycott, its greatest victory.

Chavez understood the importance of such decisions and promised to do something about them. Asked why the growers were so worried about his union, he remarked "They know that in a few years, farm workers will be sitting on city councils, county boards, and **the courts**. That's where the Movement is going to lead us. That's why the politicians on the right are so worried. Rural areas will no longer be conservative strongholds." There was, Chavez went on, "so much political work to be done taking care of all the grievances that people have, such as the

Monterey County, 4 Cal. 3d 556, 563, n.7 (1971).

¹¹³Levy, *Chavez*, 431-33; *UFWOC v. Superior Court of Monterey County*, 4 Cal. 3d 556, 572 (1971).

discrimination their kids face in school, and the whole problem of the police. I don't see why we can't exchange those cops who treat us the way they do for good, decent human beings like farm workers. Or why there couldn't be any **farm worker judges**.”¹¹⁴ After the 1970 strike, boycott, and injunctions, it must have been obvious to anyone in Monterey County how crucial it was to control the judiciary and it was surely predictable that representatives of the farm workers or other forces within the rapidly growing Latino community would seek to do so where they could potentially obtain majorities or influence appointments.

The rest of the decade of the 1970s reinforced the lessons about the importance of politics and judges. In 1971, growers induced a moderate Democrat from Orange County, Ken Cory, to carry a bill restricting harvest-time strikes and boycotts in the California State Assembly. When it cleared one committee and was scheduled for a hearing before another, 2000 supporters of the UFWOC marched on the capital and their leaders confronted Cory and talked to other legislators. Ways and Means Committee chair Willie Brown killed the bill that day.¹¹⁵ Giving up on the Democratic-dominated legislature, the American Farm Bureau Federation qualified Proposition 22 for the 1972 ballot. This proposition outlawed secondary boycotts, severely restricted primary boycotts, required a 60-day cooling off period after strikes were called – essentially banning harvest-time strikes – , prohibited collective bargaining over work rules, and proscribed the union shop. The UFWOC had to call off all its organizing, strikes, and boycotts to defeat the proposition.¹¹⁶

¹¹⁴Quoted in Levy, *Chavez*, 447, 537. Emphasis added.

¹¹⁵Levy, *Chavez*, 447-49.

¹¹⁶Majka and Majka, *Farm Workers, Agribusiness, and the State*, 210.

With the election of Gov. Jerry Brown, who had marched with Chavez, and an overwhelmingly Democratic legislature in the Watergate election of 1974, the UFW (now sufficiently recognized that it could drop the “organizing committee” from its name) sought to make its popularity among workers a more solid asset. The California Agricultural Labor Relations Act, hammered out by Gov. Brown during negotiations with all sides, provided that workers, not employers or unions, would decide who represented them collectively, and it set up an Agricultural Labor Relations Board to oversee the process. Because farm workers often lived in housing controlled by their employers, the first ALRB, very sympathetic to the UFW, granted union organizers the right to speak to workers, even on growers’ property, before and after work and during lunchtime. Presenting an inescapable conflict between the rights of workers and private property, this provision invited judicial intervention, and county judges in several San Joaquin Valley counties enjoined the access rule, only to be overturned by the California Supreme Court. In Monterey County, District Attorney William Curtis had UFW organizers who went into the fields to try to talk to workers arrested, despite the ALRB ruling. As the cases came up in the Soledad-Gonzales Justice Court and the Salinas Municipal Court, UFW attorney Sanford Nathan charged that “the District Attorney has become the growers’ private lawyer and the sheriffs their private police force.” When growers blocked refunding of the ALRB in the 1976 legislature and the UFW qualified Proposition 14 to write the ARLA into the state constitution, one of the growers’ most effective television ads against the proposition mixed a barely veiled racial message with an ideological one. In the ad, a wizened white farmer said: “Help me protect my personal property rights and yours. I’ve raised my family and *daughters* on this farm and *we* feel threatened.” The UFW’s Proposition 14 failed, 62-38 statewide and by 72-

28 in Monterey County.¹¹⁷

But the access rule neatly encapsulated the difference a judge makes. After battles with Teamsters, growers, and their allies in law enforcement and the courts for most of the decade, the UFW struck the Salinas Valley again in 1979. At least fifty trials grew out of the strike, which the *Californian* said was larger than the 1970 Salinas Valley strike. This time, the judges were much more sympathetic, especially Superior Court judge Richard Silver, a Jerry Brown appointee who had defended John Cluchette, one of the radical African-American “Soledad Brothers,” when Silver was in private practice. Although he worried about potential violence, Judge Silver granted the ALRB’s motion to allow a limited number of UFW organizers access to strikebreaking workers in the middle of the fields where they ate their lunch. Even the *Californian*, not so automatically pro-grower as it had once been, denounced what it called Silver’s “unprecedented court ruling,” saying the judge had “tossed from the courthouse window the constitutional right to private property.” According to the newspaper, Silver’s decision “for the first time in the history of agricultural labor, [gave] a limited right for the union to speak with non-union workers brought in to cross UFW picket lines.¹¹⁸ Some of the workers, including 50 to 250 who the paper said “lived in caves, packing boxes and makeshift tents made of plastic sheets” on the Nagata Brothers Farms, were happy to get to listen to the union. On another farm, undocumented Mexican immigrant Luis Gonzales told a *Californian* reporter that the companies had lied in their recruitment promises. “You are kept a prisoner in [the company barracks].

¹¹⁷SC, Aug. 5, 1975 (Nathan quote); Jenkins, *Politics of Insurgency*, 197-201, 204 (ad quote – italics in original). The veiled message, of course, was that dark-skinned men were threatening young white women.

¹¹⁸SC, May 24, 1979, 4; May 29, 1979, 2; March 1, 1979, 4 (quote).

They don't allow you to talk to anybody. . . .They gave us bad beds, it was cold, and there was no refrigerator so that we could keep our own food. In the morning the meal was water.” He had not been told that there was a strike going on, and except for Judge Silver’s order, Gonzales would never have learned anything favorable about the UFW.¹¹⁹

In 1979 strike, unlike the 1970 strike, most Salinas Valley agricultural firms ended up signing contracts with the UFW. And instead of overturning Silver’s decision, as it had those of Brazil and Campbell, the California Supreme Court sustained it.¹²⁰

H. Traditional Non-Redistricting Principles

Before the mid-1960s, members of the ludicrously malapportioned, grower-dominated Monterey County Board of Supervisors – the body that determined the fate of the justice courts – served long terms. In the First and Fifth Districts, for instance, M.S. Hutchings and A.B. Jacobsen arrived on the Board together in 1933 and remained until death, the one in 1952, the other in 1955. William J. Redding of the Third District served for the twenty years after 1939, George Dudley of the Fourth, from the beginning of World War I until nearly the end of World War II.¹²¹ They were often reelected with tiny votes. Thus, in 1956, Dudley’s successor Loren Bunte was elected to his fourth term over two other candidates. Bunte received 396 votes. The South County had two districts, the North County one, and the towns and nascent cities in

¹¹⁹SC, May 24, 1979, 9; June 4, 1979, 1 (quote).

¹²⁰SC, April 11, 1980; *ALRB v. California Coastal Farms*, 31 Cal. 3d 469 (1982).

¹²¹Exhibit #1 to Joaquin G. Avila to Chief, Voting Section, Civil Rights Division, Dept. of Justice, Feb. 12, 1992 (hereinafter referred to as Avila Comment Letter).

between shared the final two. Naturally, all of the supervisors were white, as they had been since 1893.¹²² No African-American, Asian/Pacific Islander, or Native American has ever been elected to the Board. As Board Chairman Jacobsen remarked to Bunte when he was sworn into office, Monterey County's "was the most harmonious" board of supervisors in California.¹²³

Despite a population equality requirement for supervisorial redistricting that had been part of state law since at least 1883, the Monterey County Board of Supervisors refused to redistrict itself from 1886 until 1963. During those 77 years, the population spread between the most and least populated districts grew from 1.5:1 to 62:1. 53% of the population resided in a single district, the Fifth, which covered all of the Monterey Peninsula, while less than 1% of the people lived in the South County Fourth District. 17% of the population elected the three rural supervisors. In 1954, the County's Grand Jury called for reapportionment, but the supervisors, and later, a majority of the voters, declined to realign the districts. Only a lawsuit, *Griffin v. Board of County Supervisors*, in which the city of Seaside joined Monterey newspaper publisher Allen Griffin to demand an end to such gross inequities, forced the Board to live up to the requirements of state law. It was the first California reapportionment case to be decided after *Baker v. Carr*.¹²⁴

¹²²Avila Comment Letter, 18, n.21; SC,, June 6, 1956, 1.

¹²³SC, Jan. 9, 1945, 1.

¹²⁴*Griffin v. Board of Supervisors of the County of Monterey*, 60 C.2d 318; 33 Cal.Reptr. 101, 384 P.2d 421 (1963), hereinafter referred to as *Griffin I*; *Griffin v. Board of Supervisors of the County of Monterey*, 60 C.2d 751; 36 Cal.Rptr. 616, 388 P.2d 888 (1964), hereinafter referred to as *Griffin II*; SC, Dec. 17, 1954, 1; Sept. 4, 1956, 10; Nov. 7, 1956, 4; Dec. 4, 1962, 1; Aug. 20, 1963, 1.

In reaction to the California Supreme Court's unanimous decision in *Griffin I*, the Board established the outlines of the supervisorial districts in the basic form in which they existed until April, 1992. The North County First District then contained no incorporated cities. The Second was comprised of most of the city of Salinas, including the then-recently-annexed Alisal area. The Third covered the agricultural Salinas Valley, as well as the coastal area south of Big Sur. The Fourth took in Seaside, most of Fort Ord, and a bit of Monterey, while the Fifth encompassed the rest of Monterey, Pacific Grove, and Carmel. Decided just before *Reynolds v. Sims*, *Griffin II* allowed a population disparity of 2.2:1, over the protests of the Peninsula communities. Under the new apportionment, the South County Third District contained only 9% of the county's registered voters, the Peninsular Fifth District, 36%.¹²⁵

The requirement of more equally populated districts for the Board of Supervisors and, under *Reynolds* and associated state decisions, for the state legislature, opened up the Board to new faces and raised the possibility that some of those faces might be dark. In District Two, two-term supervisor Burt Talcott had been elected to Congress in 1962. District Three's Robert G. Wood left for the State Assembly in 1968. Roger Payner of District Four ran unsuccessfully for the State Senate in 1976. Sam Farr, of District Five, won an Assembly post in 1980.¹²⁶ Between 1965 and 1975, five different men represented the Third District.¹²⁷ For four

¹²⁵*Griffin II*, at 753-54; *SC*, Dec. 26, 1963, 1.

¹²⁶Avila Comment Letter, Exhibit #1; *DPH*, Sept. 25, 1975.

¹²⁷Tom Wieder, "Two Vie in 3rd District," *MH*, Nov. 2, 1974.

generations, the members of the Board of County Supervisors protected their power and positions by refusing to reapportion. Since then, they have substituted active for passive districting principles, adopting boundary lines to enhance their political prospects, often at the expense of potential opponents from ethnic minorities. When moves to abolish justice courts were proposed to the old, malapportioned, rural-dominated Board, as in 1945, they were easily brushed aside, and they might well have suffered a similar fate after 1964, unless growers had decided otherwise. After 1964, greater urban power on the Board put issues like court centralization on the agenda because they increased the convenience of services to those, particularly lawyers, who lived in urban centers. But fractionalization of the Board and relatively rapid turnover of its members made it more difficult to develop a consensus and easier to block changes.

I. The Emergence of Ethnic Politics in Monterey County in the 1970s

Just when the Board of Supervisors was deciding how to arrange the county's judicial system, Latino and African-American candidates began to seriously contest major, as well as minor offices for the first time since early in the twentieth century. In 1972, African-American Jane Van Hook ran against incumbent Superior Court Judge Stanley Lawson. In 1976, Jose Rafael Ramos forced Soledad-Gonzales Justice Court Judge Alan Hedegard into a runoff, and in open-seat races for two Board of Supervisors' seats, Pearl Carey and Jack Simon, both African-Americans, ran first in the primaries and closely contested the November runoffs. Throughout the South County and even in Salinas, Mexican-American candidates were running and sometimes winning school board and city council races. Clearly politics was beginning to reflect

the county's demographic changes, as well as the increased social activism by members of minority groups. In similar instances elsewhere, the response of the political establishment was to gerrymander districts or change the electoral rules in some other way that warded off minority upsurges, or at least to keep such procedures as at-large elections and majority vote requirements that made it more difficult to elect minorities. It is clear, as I shall show below in Section J, that the Board's 1981 redistricting of its own lines was intended to protect incumbents from challenges, particularly from minority or minority-preferred candidates. In this political environment, such changes as the elimination of district elections for the election of judges, made by the same political body that was willing to realign districts to preserve their political power against minority challenges, should be treated as suspect.

Judicial contests, especially in small towns, did not attract as much attention from city newspapers as Supervisors' races did. Jane Van Hook, apparently the first black woman to run for county-wide office in Monterey County, was a graduate of Hastings Law School and the directing attorney of the Legal Aid Society, where she had developed a successful rehabilitation program for parolees. Despite an endorsement from 420 persons or couples, the Seaside resident failed to attract much support from lawyers and newspapers, who did not seem responsive to her slogan, "Vote for Change." Van Hook lost to 18-year incumbent Superior Court Judge Stanley Lawson by nearly three to one.¹²⁸

The Soledad-Gonzales Justice Court race of 1976 was less one-sided than the county-

¹²⁸SC, May 18, 1972, 5; June 2, 1972, 5; June 3, 1972, 4; June 7, 1972, 1.

wide Superior Court contest had been. Having been appointed in 1972 to fill an unexpired term, Alan Hedegard was electorally untested as the 1976 election approached. A graduate of Purdue and the University of Indiana Law School, Hedegard had worked in the Monterey County District Attorney's office before being appointed judge. His opponents were Monterey attorney Terry McCleery, a graduate of the University of Iowa Law School, and Jose Ramos, whose credentials were even more impressive than Hedegard's. A graduate of the University of California at Berkeley and the Boalt Hall Law School (also a branch of the University of California), Ramos had been a lawyer for twelve years, six as regional counsel for the U.S. Postal Service, and he was then a trial attorney in the County Counsel's office. Eschewing open ethnic appeals, Ramos attacked Hedegard for demeaning the office through his personal lawsuits against a Salinas hospital, as well as against Santa Cruz County, which resulted from apparently petty disagreements. In the June primary, Hedegard bested Ramos by about 100 votes, with McCreery attracting just enough votes to keep Hedegard under the majority he needed to avoid a runoff. Ramos's best precinct in Soledad was the only one of approximately a hundred listed in the *Californian* in November, 1976, as having voted in favor of the UFW-backed Proposition 14. In other words, Ramos's support mirrored that of the UFW. In that same November election, however, Hedegard triumphed, 60%-40%, a margin of victory that "surprised and pleased" the winner.¹²⁹

¹²⁹SC, Dec. 4, 1975, 1 (Hedegard's litigiousness); June 5, 1976, 6; June 9, 1976, 11 (primary returns); Nov. 3, 1976, 14 (quote); Nov. 4, 1976, 16 (general election returns). In a later election, Hedegard was accused of having made decisions about Latinos without their lawyers being present. Unlike most other judicial candidates in the county, Hedegard often faced opposition for reelection, and in 1988, the Bar Association endorsed his opponent. SC, March 12, 1988; June 2, 1988, 3A.

Perhaps it was the movements for civil and women's rights that thrust Pearl Carey into Monterey county politics, or perhaps the feisty black woman needed only the opportunity that reapportionment provided. After her husband retired from the military, the Careys bought a house in Seaside because, according to her, "that was where real estate agents showed houses to blacks."¹³⁰ Extremely active, Pearl Carey served as president of local chapters of the NAACP, the Business and Professional Women's Club, the Democratic Women's Club, and the ACLU, and she helped organize the National Women's Political Caucus in the county.¹³¹ Defeated for a city council post in Seaside¹³² in 1966, Carey won in 1970 by 30 votes. Rather than ignoring or trying to sidestep the racial issue, Carey attempted to broaden it, employing hard-edged prose that contrasted sharply with the conventional political platitudes of most campaigns: "We should not make the mistake of seeing the inequality problem as essentially a racial one," she declared. "There are many poor whites and some middle class blacks and browns. What is required is not merely an end to racism but an end to the political powerlessness of poor people, no matter what their color, creed or

¹³⁰ *SC*, March 6, 1990, 1C.

¹³¹ *DPH*, Dec. 13, 1974; July 5, 1977.

¹³² From 1960 to 1970, Seaside grew from 19,353 to 35,935, surpassing Monterey to become the second largest city in the county (after Salinas). In 1970, 20.4% of Seaside's population was African-American, 11% was Asian or other, and 68.4% was white. (The census generally classed Latinos as "white" at that time.)

national origin." Almost immediately after the 1970 election, forces loyal to Mayor Lou Haddad began to organize a recall against the two black and two white councilpersons who feuded with Haddad over urban renewal, redevelopment, zoning, and appointments.¹³³ "I have kept my promises and have lived by my convictions, never afraid to stand alone," Carey pronounced.¹³⁴ Nevertheless, in a June, 1971 election, she fell victim to Haddad's "patronage political machine" by 31 votes. According to the *Monterey Herald*, which opposed the recall, "There are no allegations whatsoever of dishonesty or illegal conduct on the part of the four councilmen The only issue, if it can be called that, seems to be the inability of one member of the Seaside council [Haddad] to govern productively with the four other members."¹³⁵ When she ran for Seaside mayor in 1972, the *Herald* endorsed Carey as "a woman who is committed to something more than the politics of self-aggrandizement...a proved leader with a

¹³³It is not clear to what extent racial issues underlay the split between Haddad and his opponents. In a referendum on urban renewal, the voters, by a 1120 to 997 margin, rejected the councilpersons' efforts to control the local urban renewal agency. The greatest support for the council came at the Martin Luther King Junior High School and the Noche Buena School, where Haddad's forces lost by 205-108 and 187 to 105, respectively. At Fremont Junior High in the southeastern portion of the city, the Mayor's position prevailed by 251-83. *DPH*, June 2, 1971, 1.

¹³⁴*DPH*, June 25, 1971, 5.

¹³⁵The other three councilpeople were Gerald McGrath, who had barely lost for fourth district supervisor in 1968, Oliver Murray, and Anglo, and Stephen Ross, an African-American first elected in 1964. *DPH*, June 1, 1971, 6; June 2, 1971, 1; June 4, 1971, 1; June 15, 1971, 1; June 25, 1971, 22; June 28, 1971, 1.

demonstrated capacity for working with people - all kinds of people - to get things done."¹³⁶ Defeated by 65 votes by Bernard J. Dolan, Jr., she ran again, and lost again, in 1974. A delegate to the Democratic National Convention in 1972, Carey in 1974 became the first citizen of Monterey county to be elected to the national committee of a major political party. For her partisan activities, she was fired from her federally-funded job for violating the Hatch Act, a dismissal that she appealed on First Amendment grounds, unsuccessfully, to the U.S. Supreme Court. And Democratic party activism could only be an advantage in a county in which Democrats made up nearly 60% of the two-party registrants.¹³⁷

When one-term Fourth District Supervisor Roger Payner decided to run for the Democratic nomination for State Senate in 1976, Carey was the first to announce for his position. Had she been elected, she would have been the first woman and the first black on the Monterey County Board of Supervisors.¹³⁸ "There has never been a minority group member on the board and I think it's about time for everybody to have the same opportunity," she remarked just before the primary.¹³⁹ According to her eventual runoff opponent, Michal Moore,

¹³⁶ *DPH*, April 12, 1972; April 7, 1972, 18. The paper's "all kinds of people" comment was presumably a subtle message to whites and Asians to vote for Carey despite her race.

¹³⁷ *DPH*, Oct. 18, 1976, 3.

¹³⁸ *DPH*, March 19, April 18, 1974; Jan. 27, Sept. 25, 1975.

¹³⁹ *SC*, June 4, 1976, 9.

Carey was endorsed by the *Herald* and other newspapers, as well as "the black organizations" and "every civic organization that was white dominated on the peninsula . . . had a tremendous organization that was peninsula wide that had seen her as a tireless worker for various causes on the peninsula," and outspent the other candidates. She was widely expected to finish first in the primary, Moore thought. The real contest was to get into the runoff with her.¹⁴⁰

As predicted, in the six-candidate primary, Carey took first place, nearly doubling the vote of her old antagonist Joe Dolan. She finished 6.7% ahead of second-place Moore, a 29-year old white land economist who had been in the county for a mere four years, was completely unknown to the public before the election, and had never previously taken any part in politics whatsoever.¹⁴¹ The core of Carey's support was in Seaside, the center of black population in the county, where she received 38% of the votes to 11% for Moore. In Monterey, Moore led her by 24% to 21%, but in the almost entirely white unincorporated rural and suburban parts of the district, Carey garnered a mere 12%. Still, with her superior name recognition, endorsements, and financing,¹⁴² Carey, except for her race, would have seemed a dominant favorite in the second election, espe-

¹⁴⁰Michal C. Moore Deposition Transcript, *Gonzales v. Monterey County Board of Supervisors*, Aug. 12, 1992, 70-80.

¹⁴¹Moore Deposition Transcript, pp. 11-12, 69.

¹⁴²Assemblyman Willie Brown headlined a fundraiser for Carey, an unusually big name for a Monterey County contest. *MH*, Oct. 17, 1976, 3B.

cially since her sex seemed, in public at least, an advantage. Thus, the *Californian* noted that "Mrs. Carey has extensive experience in public life, and as a woman and with her special concern for human problems would bring a new dimension to the all-male board." Nevertheless, the paper endorsed her opponent because it "like[d] the cut of Moore's jib."¹⁴³

As in runoff primaries in the southern U.S., which have made it difficult for black candidates to win in white-majority districts, Carey lost the one-on-one contest with Moore in November by a 3-2 margin, although she carried the District's largest city, Seaside. When elected, Moore was the youngest county supervisor in the state and the youngest in the history of Monterey county. He was, the *Californian* pronounced, the "dark horse victor."¹⁴⁴ As a supervisor, Moore was unsympathetic to minorities, stating on one occasion, for instance, that public agencies "are being railroaded into inefficient economic positions by minorities using the heavy hammer of moral guilt."¹⁴⁵ When a provision of the County's general plan that required housing developers to set aside 15% of their units for "low - and moderate-income persons" came before the Board, Moore opposed it, citing the fact that it prohibited landlords from discriminating against families with children. This anti-discrimination ordinance, he declared, was

¹⁴³*SC*, Oct. 27, 1976, 4.

¹⁴⁴*SC*, June 4, 1980, 1.

¹⁴⁵*DPH*, Nov. 14, 1977; Moore Deposition Transcript, 69, 84-85. Moore admitted in 1992 that the 1977 quotations in the newspaper were probably correct.

merely another bad example of governments "fooling with the market," which he condemned.¹⁴² In his two terms as supervisor, according to the *Monterey Herald*, Moore "spent much of his time finding ways to reduce the cost of county programs, although at times this might hurt his urban constituents who used the services."¹⁴³ Nominally a Democrat when elected to the urban district in 1976, Moore headed George Deukmejian's Monterey county campaign for governor in 1982 against the first African-American ever nominated for that post by a major political party, Tom Bradley.¹⁴⁴

The progressive and pushy Carey was not the only African-American to run for the Monterey county Board in 1976, nor does her political stance or gender account for her defeat. Immediately to the north, in the district that contained Marina,¹⁴⁵ a very different sort of black politician, a classic small-town pol, also entered a supervisor's race in 1976. The *Salinas Californian* described him as "a man of volcanic energy . . . mercurial, a man of many words and few fixed

¹⁴² *SC*, Sept. 23, 1981, 2.

¹⁴³ *DPH*, Jan. 8, 1985.

¹⁴⁴ *DPH*, Oct. 1, 1975; Jan. 20, 1982.

¹⁴⁵ Incorporated in 1975, after two unsuccessful tries, Marina grew from 3310 in 1960 to 8343 in 1970 and 20,647 in 1980. In 1980, when the first ethnic breakdowns become available in the printed census, the city was 17.7% black, 9.9% of Spanish origin, and somewhat more than 12.9% Asian (the census listed only three Asian groups separately in the city). *SC*, Oct. 17, 1976, 28; U.S. Census, 1980.

positions, an engaging, back-slapping, off-the-rack politician."¹⁴⁶ Having moved to Monterey County in 1945 at the age of 21, Jack Simon attended Monterey Peninsula College, served in minor civil service posts, worked as a barber, owned a bar and grill, dealt in real estate, and joined every conceivable club. President of the North County Civic Club for 23 years, he also served four terms as president of the Castroville Chamber of Commerce, was an elected member of the Boards of Fire Commissioners of Seaside and North County, and held memberships in the Mexican-American Political Association, the Fil-American Community Club, the Marina American Legion, and the Alisal High School PTA. After working for the incorporation of Seaside in 1954, he left for Castroville in 1957, but retained friendships in the coastal city. Having waged quite respectable races against incumbent First District supervisor Warren Church in 1968 and 1972,¹⁴⁷ Simon was hopeful that 1976 would be his year, when Church declined to stand for reelection. Among Simon's supporters in Marina was Japanese-American leader Robert Ouye, shortly to become the first

¹⁴⁶ *SC* Oct. 27, 1976, 4.

¹⁴⁷In 1968, Simon lost by 66-34, and in 1972, when Church avoided a runoff by garnering 53% of the primary vote, Simon again finished second. *SC*, June 7, 1972, 1. In Simon's newspaper advertisements, there were almost no blacks and few Hispanics, despite Simon's residence in Castroville and the fact that many people with Spanish surnames endorsed him. A good example of this tactic of trying to deemphasize his race is his appearance, surrounded by ten Anglo women, in an ad in *SC*, June 2, 1972, 13.

elected mayor of the city.¹⁴⁸ One of his newspaper ads stressed that “A vote for Jack Simon is a vote to insure all people, rich, poor, young and old an equal representation.” Like Carey, Simon finished first in the primary, like her, he was endorsed as "a progressive" by the *Monterey Herald*. His opponent was a 67-year-old former justice court judge, Kenneth Blohm, who as a school trustee had "shown a conservatism that verges on rigidity," according to the *Californian*. "Blohm's not your traditional politician. He doesn't mince words, and you always know right where he stands."¹⁴⁹ In a runoff characterized by what the *Californian* called "mud-slinging," Simon lost by a 56-44 margin, running much more strongly in the urban part of his district, Marina and Salinas, than in the unincorporated rural and suburban area.¹⁵⁰

There were so many boards – many elementary and high school districts, as well as city and town councils – and so many people with seemingly Spanish surnames who might have been Filipino or Italian or completely Anglicized descendants of Californio families that it is difficult to determine the number of Latinos who held office outside the large cities. It is virtually impossible to

¹⁴⁸Lancelot C. McClair Deposition Transcript, *Gonzales v. Monterey County Board of Supervisors*, June 10, 1992, 83; *DPH*, Dec. 31, 1969; Feb. 7, June 7, 1972; Sept. 24, 1975; July 24, 1976; May 8, 1984; Nov. 6, 1985; Jan. 9, 1980; Aug. 5, 1981, 1.

¹⁴⁹*SC*, Oct. 27, 1976, 4; Nov. 1, 1976, 16 (Simon ad).

¹⁵⁰ *SC*, June 3, Nov. 3, 1976.

identify African-Americans in Monterey County unless newspapers ran pictures of them. But as the 1960s and 70s went on, more and more Spanish surnames turned up among candidates and eventual winners.

In city council elections in King City, Greenfield, Gonzales, and Soledad in 1968, there were seven candidates with Spanish surnames; two won.¹⁵¹ Of 140 school trustees in the County in 1968, seven had Spanish surnames. Of 127 trustees listed for 1971, nine had Spanish surnames.¹⁵² Democrats nominated Spanish-surnamed candidates Julian Camacho and Juan Valadez in the heavily-Republican congressional and State Assembly districts from the county in 1972, though they lost, gaining only 38.8% and 26.4% of the votes, respectively.¹⁵³ In the same year, John Saavedra, the son of a Mexican migrant worker, who went to college only after he injured his back working in the fields, was elected to the Soledad City Council. By 1974, three of the five councilmen in Soledad were Mexican-American, and Saavedra was the first Mexican-American mayor in the Salinas Valley in many, many years.¹⁵⁴ For the 70 seats on school boards in the Salinas Valley in 1977, there were at least 13 Spanish-surnamed candidates, of whom five were victorious – two each in San Ardo and Soledad, and one in King

¹⁵¹SC, April 10, 1968, 1.

¹⁵²“Directory of Trustees, Monterey County Schools,” 1968-69 and 1971-72 editions.

¹⁵³SC, Nov. 8, 1972.

¹⁵⁴SC, July 8, 1974.

City.¹⁵⁵ By the early 1980s, Latinos were beginning to obtain majorities on school boards in Alisal and significant representation in Salinas, and they had become so numerous in the South County area as to be difficult to keep track of.¹⁵⁶

As the Board of Supervisors was considering consolidating the North County, Monterey Peninsula, and Salinas Municipal Courts in 1979, there were nine candidates for the at-large race for three Salinas City Council seats. Three were minorities: a Mexican-American, Robert Melendez, a native of Spain, Francisco Muro, and an African-American, Fred Holt. All favored affirmative action, expansion of bus services, rent control, and the settlement of fireman Gilbert Padilla's suit against the city. None of the six Anglo candidates endorsed settling Padilla's suit. Melendez, an English teacher at Hartnell College with bachelors' and masters' degrees, was endorsed by the *Californian* as a man who "would add a voice on the council for that large portion of our citizenry that claims it has no voice in this city of 75,000," a slightly veiled reference to Latinos. Melendez finished fourth, with 12.3% of the vote, running "the strongest race of any Mexican-American candidate in city history," according to the newspaper. Holt placed seventh and Muro, last of the nine candidates.¹⁵⁷

In a word, no political observer could have missed the potential and

¹⁵⁵SC, Dec. 23, 1976; Jan. 8, March 3, March 9, 1977.

¹⁵⁶SC, Oct. 30, 1981, 1; Jan. 14, 1983, 11; March 22, 1983; March 13, 1985, 1.

¹⁵⁷SC, May 23, 1979, 9; May 24, 1979, 13; May 25, 1979, 9; May 31, 1979, 4; June 6, 1979, 1.

increasing political power of Latino and African-American candidates in sub-county contests in the 1960s and 70s or the difficulty that they had in races in larger districts within the County. And members of the Board of Supervisors were, by necessity, close observers of politics.

J. The 1981 Reapportionment of the Board of County Supervisors:

Dead Souls and Incumbent Protection¹⁵⁸

After the 1971 reapportionment, the Fourth District included Seaside, Toro, Del Rey Oaks, about half of Monterey, a portion of Fort Ord, and unincorporated territory down the west side of the Salinas Valley to Arroyo Seco, while the First District took in Marina, part of Fort Ord, part of Salinas, and much of the unincorporated North County.¹⁵⁹ The county's largest city, Salinas, was trifurcated. The boundaries were widely criticized as irrational, especially the tentacled Fourth District. "I see no need for Four to go . . . down the ridge to Soledad when we have almost 100,000 on the Monterey Peninsula," Fifth District Supervisor Willard Branson remarked.¹⁶⁰ "The lines in Monterey separating the Fourth and Fifth Districts," the *Monterey*

¹⁵⁸This section of my report is drawn from a similar report, "Tacking, Stacking, and Cracking: Race and Reapportionment in Monterey County, 1981-1992," prepared for *Gonzalez v. Monterey County Board of Supervisors*, Sept. 9, 1992. The case is hereinafter referred to as *Gonzalez*.

¹⁵⁹*DPH*, June 7, 1972.

¹⁶⁰*DPH*, June 10, 1971, 3.

Herald later reported, "were drawn through some backyards and alleys and have proved confusing."¹⁶¹

In 1981, according to the County's Section 5 submission to the Department of Justice, the Supervisors adopted four basic tenets for reapportionment:

- "A) Affect the representation of Monterey County Population as little as possible.
- B) As much as possible retain the integrity of Municipalities within Monterey County by not bifurcating them or in no case trifurcating them.
- C) As much as is possible closely align within common Supervisorial Districts the coastal cities and likewise the inland valley cities.
- D) Retain as much as is possible the rural/agricultural basis of the First and Third Supervisorial Districts."¹⁶²

Not only did the Supervisors not mention protecting minorities among their criteria; they also

¹⁶¹*DPH*, Aug. 18, 1981, 1. The lines between the Fourth and Fifth Districts drawn in 1981 were complex and confusing, as well. Referring to a map in the paper, the *MH* traced the boundaries: "The new Fourth District includes Pacific Grove and the portions of Pebble Beach and New Monterey above the heavy black line pictured above. The dividing line follows the edge of the Spyglass Hill Golf Course, zig-zags at Forest Lake Rd. to Lopez Rd. and then follows Congress Road in a line to the Pacific Grove city limits. From there, the boundary parallels the northern edge of the Presidio of Monterey, looping around the Presidio at Lighthouse Avenue and then back along Pacific Street in Monterey before curving north with Highway 1." *DPH*, Aug. 23, 1981, 2A. Whatever the purposes of the 1981 reapportionment, simplifying and rationalizing boundary lines was not among them.

¹⁶²Ross J. Underwood to Assistant Attorney General, Civil Rights Division, Department of Justice, Sept. 16, 1981. This letter and its attachments are hereinafter referred to as 1981 Submission. Capitalization in original.

blatantly violated every standard that they set for themselves.¹⁶³

Population shifts over the decade meant that the three southern districts needed to gain population, while the two northern ones had to lose it.¹⁶⁴ The easiest and most logical way to accomplish the change would have been for the South County Third District to extend north in the Salinas Valley, taking in parts of eastern Salinas, and for the Fourth District to move north along the coast, adding Marina and giving its unincorporated southern section to the Fifth District. Although other, smaller shifts would also have been necessary to bring the districts' populations within constitutionally tolerable limits, these would have been the basic alterations. They would have joined communities of interest, kept valley and coastal regions separate, minimized change and supervisors' travel time across their districts, probably split cities less than either the 1971 plan or the final 1981 plan did, and retained the fundamental characteristics of the First and Third Districts. In particular, such a realignment would have brought together the two cities in the northern part of the county with the largest percentages of Democratic registration and the greatest propensity for voting for such black candidates as Lt. Gov. Mervyn Dymally and State Atty. Gen. candidate Yvonne Braithwaite Burke – the only cities to cast majorities for Dymally. If one of the common objectives of reapportionment is to join communities of interest, then Seaside and Marina formed the most obvious community of interest of any two cities in the

¹⁶³There is apparently no direct evidence in Board Minutes that the Board ever formally adopted those criteria, and at least one supervisor who served in 1981 does not remember them. Marc J. Del Piero Deposition Transcript in *Gonzalez*, Aug. 25, 1992, 38.

¹⁶⁴In 1970, the population of the county as a whole was 4.9% black and 7% Asian and other. Latinos were not counted separately, as such. In 1980, the county's population was 6.3% black, 25.9% Latino, 6.5% Asian/Pacific Islander, and 1% American Indian.

county. They were the most politically similar, the most racially diverse, and the most racially liberal in voting patterns. In accord with this logic, the two plans proposed by the office of the Monterey County Registrar of Voters, which served as the chief technical consulting agency during the 1981 reapportionment, joined most of Marina and Seaside in District Four.¹⁶⁵ But as it generally does in reapportionment, logic gave way to political advantage, in this case racial, as well as incumbent political advantage.

In 1980, the South County or Salinas Valley Third District was 41.8% Latino in population, and if it entered heavily Latino eastern Salinas, also known as Alisal, it would probably have a Latino majority, especially if it gave up part of Fort Ord to another district. This, of course, was exactly what Latinos desired. At a hearing on June 23, 1981, for instance, the Valley Organizing Task Effort (VOTE) proposed three options, all of which would have put Alisal in the Third District.¹⁶⁶ "It just seems the Chicano community has been ignored here for a long, long time," Juan Martinez of VOTE told the Board later. "What we want is a little piece of the action." The organization's plea for a solid agricultural district was, he declared, "not taken seriously."¹⁶⁷ Instead, Third District Supervisor Dusan Petrovic haughtily refused even to discuss

¹⁶⁵ SC, Aug. 1, 1981; documents attached to Ross J. Underwood to Board of Supervisors, regarding Aug. 4, 1981 meeting. On the authorship of the plans in 1981, see Ross J. Underwood Deposition Transcript in *Gonzalez*, Aug. 11, 1992, 17.

¹⁶⁶County 1981 Submission, Exhibit D.

¹⁶⁷County 1981 Submission, Exhibit D; "Supervisors OK Reapportionment," *MH*, August 18, 1981.

including Alisal in his district,¹⁶⁸ and he floated rumors that if the area were attached to his district, the Salinas Valley would secede from Monterey County.¹⁶⁹ Although at another time, the irascible Petrovic's bluster might have produced an adamant counterreaction, this time his fellow Board members capitulated -- because it was in the interest of most of them to do so. Consequently, Petrovic was allowed to capture more of Fort Ord and to annex Marina to his district.

According to the *Monterey Herald*, newly elected First District Supervisor Marc Del Piero was "eager" to give up multicultural Marina, which had been his weakest area in the June, 1980 primary, and which he had lost in the November, 1980 runoff.¹⁷⁰ Incorporated in 1975, Marina prided itself on an ethnic diversity that made it "different from the composition of Pacific Grove, Carmel. It's thoroughly integrated. There are no ghettos. Every part of the city is totally intermixed and that's something, that we have learned to live in harmony. And we really cherish

¹⁶⁸Moore Deposition Transcript in *Gonzalez*, 33-37: "Q. Weren't there Hispanic organizations pushing to have East Alisal added to district three? A. Yes, there were. Q. And did you have any discussion with Mr. Petrovic about that? A. I tried to and he wouldn't discuss it . . . he simply turned on his heel and walked away with me . . . saying 'I won't dignify that.'"

¹⁶⁹Del Piero Deposition Transcript in *Gonzalez*, 47-49.

¹⁷⁰*DPH*, Aug. 3, 18, 1981. Although he claimed in 1992 not to remember whether or not he had carried Marina in 1980, Del Piero recalled in exquisite detail the exact nuances of his interview with the *Herald* that resulted in a critical article about his desire to dispense with Marina. He also did not recall telling Moore that he wanted to drop Marina. Del Piero's memory was conveniently selective. Del Piero Deposition Transcript in *Gonzalez*, 23-26, 71-72.

that pattern," says the current mayor.¹⁷¹ When the 1981 redistricting plan was made public, Marina city officials were furious at what even a South County conservative denounced as "preposterous gerrymandering."¹⁷² District Three was rational, declared the *Salinas Californian*, "except for Marina, which sticks out on the map like a swollen appendix. Nobody wanted it . . . " The new map showed "the power of incumbents to solidify their power bases," the paper concluded.¹⁷³ "For years," Marina City Councilman Paul Davis complained, "Marina has been the stepchild of Monterey County." Now, it was being put in a district "having nothing at all compatible." Marina City Councilwoman Barbara Bird "accused the supervisors of using politics as a fundamental guideline in drawing a plan." Rather than move Marina out of the First District and separate it from areas which the city planned to annex, a unanimous resolution of the City Council suggested that the Board accept VOTE's proposal to move Alisal into the Third District. Marina Mayor Robert Ouye, an Asian-American, conveyed the resolution to the Supervisors in a letter read at a meeting at which the Board "brush[ed] aside complaints by Marina city officials on a supervisorial redistricting plan . . ."¹⁷⁴ During the 1980s, allegedly because of Marina's

¹⁷¹Edith Johnsen Deposition Transcript in *Gonzalez*, Aug. 12, 1992, 48.

¹⁷²*King City Rustler*, Aug. 28, 1991. The order of the two words in the original quotation has been reversed.

¹⁷³*SC*, Aug. 21, 1981,12.

¹⁷⁴*DPH*, Aug. 18, 1981,1; Aug. 24, 1981; Aug. 25, 1981, 19; "Reapportionment: Marina to Seek Changes," *ibid.*, August, 1981, in County 1981 Submission, Exhibit G; Robert T. Ouye to Monterey County Board of Supervisors, Aug. 21, 1981, in *ibid.*; *SC*, Aug. 21, 1981, 1; Aug. 25, 1981, 12.

votes against him in the 1980 election, Del Piero "could be counted on to be in opposition to Marina . . . on almost any kind of expansion or growth or any activity whatsoever that we had."¹⁷⁵

In stark contrast to their treatment of Marina, the supervisors were much more responsive to the wishes of one man in an agricultural area just north of Marina, the Armstrong Ranch, into which Marina expected to develop. Marc Del Piero simply met with the "most predominant resident" -- an Anglo -- who lived in the virtually unpopulated census tract, asked him what district he wanted to be in, and honored his wishes.¹⁷⁶ When a Korean-American mayor of Marina spoke, he was ignored. When a white grower did, the all-white Board of Supervisors complied.

The shift of Marina from the First to the Third District is the prime example, but not the only one, of three important generalizations about redistricting in Monterey County that the record of 1981 and 1991-92¹⁷⁷ reveals: First, changes that benefit two or more supervisors have been easiest to effect. The switch of Marina from the First to the Third District and the consequences of that switch helped *four* supervisors. Second, the interests of minority group members in such swaps have been, at best, ignored. Third, in reapportionment, what you avoid taking is often just as important as what you give up.

In a summary article on the redistricting entitled "Supervisors shore up voter bases" --

¹⁷⁵Johnsen Deposition Transcript in *Gonzalez*, 73.

¹⁷⁶Del Piero Deposition Transcript in *Gonzalez*, 80.

¹⁷⁷In this report, I am concerned only with events up to the abolition of Monterey County's last justice court in 1983. Nonetheless, I mention the 1991-92 reapportionment of the Board of County Supervisors to indicate the continuation of previous patterns. Evidence for my conclusions about the 1991-92 reapportionment in Monterey County is contained in a quite lengthy section of my report for the *Gonzales* case, which is omitted here for reasons of space.

which the County did *not* include in its Section 5 submission to the Department of Justice -- the *Salinas Californian* made clear some of the incumbent-protecting consequences of the new lines. Not only did Del Piero "dump" Marina, he also picked up a larger proportion of North Salinas, where he lived and whose voters he felt quite comfortable with.¹⁷⁸ Just as losing Marina helped Del Piero and gaining it made it possible for Petrovic to evade Alisal, avoiding the addition of Marina to his Fourth District aided Supervisor Michal Moore, who, in the *Californian's* words, "initially appeared to be the most likely candidate to pick up Marina from Del Piero." As the paper pointed out, "Moore sits on the board of the regional sewage district -- a highly unpopular issue in Marina, where the water district there has been stubbornly fighting the district for years. . . Moore also dropped the Toro area, where growth issues have become increasingly volatile and can snag all but the most ardent environmentalist."¹⁷⁹ In 1976, Toro resident Joseph Sullivan carried every precinct in Toro in the Fourth District primary and failed by only 42 votes to edge Moore out of the runoff. In a 1980 rematch, Sullivan's margin was reduced to 52.1% in Toro.¹⁸⁰ (Moore's later false claim to have done "very well [in Toro] every time that I ran" -- in fact, he only carried it one time out of three -- undercuts his denial that he moved Toro into the Fifth

¹⁷⁸SC, Aug. 20, 1981; Del Piero Deposition Transcript in *Gonzalez*, 73-74.

¹⁷⁹Moore Deposition Transcript in *Gonzalez*, 18-19. Elected as a strong environmentalist, Moore was often in trouble for his uneven opposition to big developments, close financial ties to developers, and the appointment of personal supporters, instead of environmentalists, to important commissions. See *DPH*, June 6, 1976; Feb. 8, 9, Oct. 27, 31, 1978.

¹⁸⁰The election returns for 1976 and 1980 are part of the County's 1981 Submission and SC, Nov. 5, 1976, 11. Sullivan's residence information comes from SC, June 2, 1980, 3.

District to enhance his own reelection chances.)¹⁸¹

Moore's refusal to take Marina into his district and his desire to flee Toro left the Fourth District short of population. One logical possibility that would have made the 1981 map much more tidy and fulfilled one of the Supervisors' stated goals for the reapportionment, uniting split cities, was apparently never considered: the transfer of the other half of Monterey from District Five to District Four. Apparently, making Monterey whole offered no marked benefit to any incumbent. Instead, the Board hit on a solution that perfectly fit the political interests of both Moore and Fifth District Supervisor William Peters, which was for Moore to take in the affluent Anglo city of Pacific Grove from the Fifth District. Pacific Grove was less than two percent black in 1980, whereas Marina was eighteen percent black.¹⁸² Moore's conduct was particularly egregious when compared to his rhetoric in public meetings. In the Aug. 4 Board meeting, for instance, Moore criticized the trifurcation of Salinas and expressed a wish to eliminate "the bisection of other cities where possible. . . . He feels the integrity of interest in the cities on the Monterey Peninsula should be maintained."¹⁸³

Elected in 1980 over Pacific Grove resident Neill Gardner by a razor-thin 51-49 margin,

¹⁸¹Moore Deposition Transcript in *Gonzalez*, 48-49. Former Registrar of Voters Ross J. Underwood says that Moore told him that he wanted to transfer Toro to another district. Underwood Deposition Transcript in *Gonzalez*, Aug. 11, 1992, 32, 51.

¹⁸²The area of Marina outside of Fort Ord, which voted in higher percentages than that in Fort Ord, was 22.5% black in 1980.

¹⁸³Board of Supervisors Minutes, Aug. 4, 1981.

Peters had been indicted for campaign-law violations just before the November, 1980 runoff. Facing a trial on ten charges of conflict of interest at the same time as reapportionment was being negotiated, Peters' career was in serious jeopardy in 1981, and he needed every edge that reapportionment could give him.¹⁸⁴ (He was eventually convicted and sentenced to a \$10,000 fine.)¹⁸⁵ Since his 1980 loss, Gardner had been leading a recall effort against Peters.¹⁸⁶ Moore told Underwood that, after the recall effort began, Peters had indicated that he wanted Pacific Grove out of his district.¹⁸⁷ Connecting the Fourth District to Pacific Grove necessitated the split of the unincorporated, extremely affluent, and very fractious community of Pebble Beach, which strongly protested the self-interested actions of the supervisors.¹⁸⁸ To make up for the population

¹⁸⁴The trials dragged on for years. *DPH*, Feb. 25, Aug. 8, 26, Sept 2, 9, 1981; Aug. 8, 1982.

¹⁸⁵*DPH*, Aug. 11, 1983; July 4, 1985.

¹⁸⁶*SC*, Aug. 20, 1981; *DPH*, April 7, 9, 1981.

¹⁸⁷Underwood Deposition Transcript in *Gonzalez*, 54. In his Deposition Transcript in *Gonzalez*, 43-45, Moore denies that Peters asked him to move Pacific Grove out of the Fifth District or that Moore thought there was a substantial likelihood that the recall would pass. The time sequence of actual events undermines Moore's story. The Board adopted the final plan "in concept" on Aug. 18, so it must have been drafted earlier. Peters' first trial was not over until Sept. 1, and the recall effort was only suspended until after the trial. In fact, Peters was retried repeatedly and finally convicted, and he did not dare to run for reelection in 1984. It was simply not possible for Moore to have known during the first two weeks of August, 1981 that Peters was out of trouble. It was just as clear that the center of that trouble was Pacific Grove. *DPH*, June 4, Aug. 14, 28, Nov. 7, 1981; Feb. 15, 16, 17, 1984; Board of Supervisors Minutes, Aug. 18, 1981.

¹⁸⁸Underwood Deposition Transcript in *Gonzalez*, 40; *DPH*, Aug. 25, 1981, 19.

loss in Pacific Grove, Peters obtained the one-quarter black portion of Fort Ord adjacent to Seaside from District Three. It might more logically have gone to Moore's Fourth District, but if it had done so, it would only have increased the District's black proportion. Like other changes in 1981 and 1991, this shift benefitted at least two supervisors, but no minority voters.

Although newspaper reporters, the Department of Justice, and, of course, ordinary citizens of Monterey County did not know it then, the redistricting plans that protected incumbent interests so perfectly were not drawn by the supposedly impartial Registrar of Voters, Ross J. Underwood, as the public account stated, but by Supervisor Michal Moore, the man who had saved the county from Pearl Carey, a man whose actions and statements showed little sympathy with minorities, and a man whose political future was markedly improved by the results of the reapportionment.

Underwood first drew two plans on the basis of the Board's stated criteria, assertedly without consulting any Board member. Both of the plans, as noted above, joined Marina to Seaside in the Fourth District.¹⁸⁹ Before presenting the maps to the Board in a public session, however, Underwood was summoned to Moore's house, where Moore presented him with a scheme that he had devised, with the help of his administrative aide, and which placed Marina in the Third, rather than the Fourth District. Moore's map then became the basis for negotiation, Underwood's two plans becoming as irrelevant to the process as the only other plan that had the effect of enhancing minority group interests, that of Project Vote. Rather than an originator of maps, Underwood thereafter became merely a tabulator of statistics, making sure, for example,

¹⁸⁹The plans did leave the Fort Ord portion of Seaside in Petrovic's district. Attachments to memo from Ross J. Underwood to Board of Supervisors, relating to Aug. 4, 1981 meeting.

that the supervisors understood the ethnic consequences of any proposed change by providing the relevant ethnic percentages. The only major alterations to Moore's kitchen table map were the interchanges of Pacific Grove and Toro, the jagged bifurcation of Pebble Beach, and the shift of the Fort Ord portion of Seaside from District Three to District Five.¹⁹⁰

There was another important facet to the events of 1981, a reapportionment nuance that was frequently admitted from at least 1964 through 1992 -- the trade in "dead souls." In Gogol's famous comic novel, the vulgar and grasping Paul Chichikov buys the rights to deceased serfs (also called "souls" in Russian) to serve as collateral for loans. As long as the authorities are not formally told of their deaths, he can borrow more and more money.¹⁹¹ Likewise, from 1971 on, supervisors used low-voting military populations to pad the population totals of their districts without threatening their incumbency.¹⁹² As Supervisor Marc Del Piero summed it up: "I think everyone was aware that they [denizens of Fort Ord] didn't vote much."¹⁹³ The 1971 plan, according to the *Monterey Herald*, "calls for using Fort Ord's 32,000 nonvoting population to bring all five districts to approximately the same 49,000 population," and was "opposed by most

¹⁹⁰Underwood Deposition Transcript in *Gonzalez*, 17-37, 42, 57-59; Moore Deposition Transcript in *Gonzalez*, 12-14.

¹⁹¹Nikolai Gogol, *Dead Souls*, George Gibian, ed., (New York: Norton, 1985).

¹⁹²In their 1963-64 reapportionment, the Supervisors put most of Fort Ord in District Four (others were in District One), justifying the fact that District Four then had the largest population by pointing out, as the State Supreme Court put it, that most of the military at Fort Ord "do not register to vote and do not pay taxes." *Griffin II*, 755.

¹⁹³Del Piero Deposition Transcript in *Gonzalez*, 77.

Peninsula cities."¹⁹⁴ In a discussion at a public meeting on July 21, 1981, Fourth District Supervisor Michal Moore suggested that "the third district ought to reflect a rural base to protect rural interests, and that the military offers a base to preserve that district."¹⁹⁵ A politically influential King City editor¹⁹⁶ noted that "it was necessary to comply with the new laws by putting more population into the rural third district. This was accomplished in 1970 [*sic*] by including Fort Ord, thought to be a non-voting population. This was by agreement with the total board in order to retain the rural flavor of the third district."¹⁹⁷ Third District Supervisor Dusan Petrovic wanted all of Fort Ord because, as the *Salinas Californian* put it bluntly, "Fort Ord's military population does not vote." His purpose, which he exalted as "in the paramount interest of the county," was to assure "that South County maintain its own person on the board."¹⁹⁸ Petrovic maintained the same view in 1989, declaring that "Fort Ord, in its entirety, should be part and parcel of the Third District. Fort Ord will give us the numbers one-man, one-vote requires and then South County would be assured of one seat on the board. The reason Fort Ord

¹⁹⁴*DPH*, June 10, 1971, 3.

¹⁹⁵County 1981 Submission, Exhibit D. Cf. Underwood Deposition Transcript in *Gonzalez*, 33; Moore Deposition Transcript in *Gonzalez*, 20-21.

¹⁹⁶In 1992, Third District Supervisor Tom Perkins named the editor, Harry F. Casey, as one of his representatives on a committee to consider expanding the Board to seven members. *KCR*, April 8, 1992.

¹⁹⁷*KCR*, Aug. 28, 1991.

¹⁹⁸*SC*, Sept. 5, 1981.

is important in reapportionment in the county is it contains residents without any great contribution of votes."¹⁹⁹ County data support Petrovic: Fort Ord, which the final 1981 plan split between the Third, Fourth, and Fifth Districts, was 29.2% black and 11.1% Latino, but of its 22,420 people, only 1251 or 5.6% were registered to vote in Monterey county.²⁰⁰ By tacking Marina onto a Third District in which, in 1980, blacks constituted less than 3% of the registered voters, and by adding all of the electorally dead souls in his part of Fort Ord, Petrovic avoided the Latinos in Alisal, thereby keeping his district safe for South County growers -- and for himself.²⁰¹ "My main sorrow," the Supervisor told his colleagues after the final adoption of the 1981 plan, "is that the Third District didn't get more of Fort Ord."²⁰² As Moore put it, more bluntly, Petrovic "wanted the nonvoting portion of Fort Ord."²⁰³

Incumbent protection in Monterey County in 1981 meant retrogression for minority

¹⁹⁹KCR, April 5, 1989,1.

²⁰⁰County 1981 Submission, Exhibit H. Similarly, only 5.3% of the people who lived at Fort Hunter Liggett were registered, and the figures from the Monterey Presidio and the Naval Postgraduate School were 25.6% and 28%, respectively.

²⁰¹The registered voter estimate is the County's, in County 1981 Submission, Exhibit L.

²⁰² SC, Sept. 9, 1981. The article went on to note matter of factly that "Fort Ord's non-voting population was used in 1970 to equalize the Third District's population with other supervisorial districts. Under the new plan, Fort Ord's population will be divided among three districts."

²⁰³Moore Deposition Transcript in *Gonzalez*, 29.

voters of all colors. As Table 4²⁰⁴ shows, instead of increasing the Latino percentage in the Third District, the final 1981 plan slightly reduced it. Instead of boosting the black percentage in the Fourth, which had the highest concentration of African-Americans, the plan diminished it. And the maximum Asian proportion in any single district decreased, as well. Moreover, the Board specifically rejected plans that would have increased the percentages of minorities in the Third and Fourth districts.²⁰⁵ Underwood's Plan #1 would have raised the percentage of minorities in the Third District to 61%, while his Plan #2 would have increased that percentage in the Fourth District to 40.2%. Finally, the Supervisors did not seriously consider substantial boosts in the minority percentages of these districts. If all of Seaside and Marina, including the Fort Ord portions, had been placed in the Fourth District, the black percentage would have nearly doubled, compared to the final 1981 plan, and the minority percentage would have been 49.4%, rather than 30%. (Compare the "Maximum" and "Final" plans.) If the Third District, in consequence, had had to give up Marina and Fort Ord, it would probably have had to take in Alisal. With these two changes, there would be no possibility that Peters's Fifth District could shed Pacific Grove. Minorities might have been better off, but a clear majority of the Board would have been

²⁰⁴The figures for Table 4 were computed by Rand demographer Peter Morrison on the basis of maps supplied to him by the County. He corrected some apparent addition errors in the County's 1981 Section Five Submission. Morrison also drafted the "Maximum Black and Asian Concentration Plan" by putting all of Seaside and Marina, including the portions of those cities within the boundaries of Fort Ord, into the Fourth District. To obtain population equality for the Fourth District, he had to exclude some overwhelmingly Anglo precincts. The Board never formally considered Morrison's plan, but of course it easily could have.

²⁰⁵It is a sign of how little attention the Board paid to the VOTE plan that the 1981 County Section Five Submission does not even contain ethnic percentages for it or enough information about the map so that they can be computed.

threatened.

**Table 4: Retrogression in 1981:
Ethnic Percentages of Each Supervisorial District Before
Reapportionment, in Each Proposed Option, and in the Final Plan**

<i>District</i>	<i>% Black</i>	<i>% Latino</i>	<i>% Asian</i>	<i>Total % Minority</i>
Pre-1981 Plan				
1	6.2	24.9	9.9	41.0
2	1.8	45.4	6.2	53.4
3	9.1	41.3	4.9	55.3
4	14.9	11.3	9.0	35.2
5	1.3	4.5	3.2	9.0
Underwood's Plan # 1				
1	1.4	31.2	7.2	39.8
2	1.5	45.0	5.9	52.8
3	11.6	42.4	7.0	61.0
4	16.9	8.2	11.0	36.1
5	1.3	4.8	3.0	9.1
Underwood's Plan # 2				
1	1.4	31.2	7.2	39.8
2	1.5	45.0	5.9	52.4
3	10.2	40.0	4.3	54.5
4	18.2	8.6	13.4	40.2
5	1.3	4.5	3.3	9.1

Moore's Original Plan				
1	1.5	31.2	7.2	39.8
2	1.6	45.1	5.9	52.6
3	8.6	41.0	8.3	57.9
4	19.4	8.2	8.2	35.8
5	1.3	4.8	3.0	9.1
Final 1981 Plan				
1	1.5	31.2	7.2	39.8
2	1.6	45.1	5.9	52.6
3	8.6	41.0	8.3	57.9
4	13.7	7.6	8.7	30.0
5	7.6	5.7	4.1	17.4
Maximum Black and Asian Concentration Plan (Not Considered)				
1	1.5	31.2	7.2	39.9
2	1.6	45.1	5.9	52.6
3	3.0	39.2	3.5	45.7
4	25.4	10.0	14.0	49.4
5	1.3	4.5	3.3	9.1

The political fates of black and brown minorities, of Marina and Alisal, were inextricably linked in 1981 and, given the power of incumbent white supervisors to protect their positions in reapportionment, almost inevitably defeated. As Second District Supervisor Barbara Shipnuck, the only dissenter on the 1981 plan, remarked, her fellow Board members

had "failed to assuage the public perception that the plan was political and not rational."²⁰⁶

Probably under pressure from the substantial group of Latinos in her district, Shipnuck reversed her earlier grudging approval of the plan at the last moment,²⁰⁷ opposing it, she later said, "because the plan did not create a Latino majority district, and because it placed the City of Marina, an urban area, in the Third District, which was otherwise primarily the agricultural South County."²⁰⁸ As Petrovic reportedly told Supervisor William Peters, he refused to take Alisal into the Third District because if it were included, Petrovic "didn't think he could win in the district."²⁰⁹

Despite section 5 protest letters from Latino leaders, the Reagan Justice Department, notably lacking in vigor under Asst. Attorney General William Bradford Reynolds, refused to interpose an objection to Monterey County's 1981 reapportionment.²¹⁰

²⁰⁶*DPH*, Aug. 18, 1981.

²⁰⁷Marc J. Del Piero Deposition Transcript in *Gonzalez*, Aug. 25, 1992, 57. In a preliminary hearing on Aug. 18, 1981, Shipnuck had voted for the plan. Board Minutes, Aug. 18, 1981, 2.

²⁰⁸Barbara Shipnuck Declaration in *Gonzalez*, June 23, 1992, 2.

²⁰⁹Moore Deposition Transcript in *Gonzalez*, 39-40.

²¹⁰William Bradford Reynolds to Leon Panetta, May 27, 1982. On the larger record of the Reagan Administration in the area of voting rights, see Norman Amaker, *Civil Rights and the Reagan Administration* (Washington, D.C.: The Urban Institute Press, 1988), 139-56.

V. Why Abolish the Justice Courts? A. Intent Factors

In my recent book, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction*, I drew on court decisions and historical practice, including my own practice as an expert witness in federal voting rights cases, to compose a list of ten factors or issues that ought to be discussed in examining the intent of historical actors, especially in the passage of electoral rules. I also extensively discussed the rationales for each factor in particular and the logic of examining them as a whole.²¹¹ The ten factors are:

1. Models of human behavior
2. Historical context
3. Text of law or lines of districts
4. Demographic facts
5. Climate of racial politics
6. Background of key decisionmakers
7. Other actions of key decisionmakers
8. Statements by important participants
9. State policies and institutional rules
10. Impact

It will perhaps be convenient for the reader of this report for me to organize this section of the paper under these rubrics.

B. The Intentions of the Abolitionists: A Summing Up

1. Models of Human Behavior

As I document extensively in *Colorblind Injustice*, and as both scholars and political

²¹¹For further discussion, see *Colorblind Injustice* (Chapel Hill, N.C.: University of North Carolina Press, 1999), 347-65.

actors have long understood, at-large elections make it much more difficult for cohesive, concentrated minorities to be elected to office, compared to elections organized by districts. The reason is obvious. Groups that do not form majorities in a large area may do so in a subset of that area. If there are not sufficient numbers of members of other groups in the larger unit who will regularly vote for a member of the concentrated minority, then an at-large election system will disadvantage the concentrated minority, compared to a district system. Thus, a familiar social scientific generalization raises doubts about the non-racial purposes of the abolition of the justice courts or, in general, the consolidation of justice and municipal court districts into one county-wide electoral district in Monterey County.

An alternative model posits governments that act, virtually without human intervention, to maximize bureaucratic efficiency and minimize costs. Any differential consequences of changes in electoral systems or policies are unintended and unimportant, as the governmental machine, on auto-pilot, continues on its mechanical way. In this model, the justice system is assumed to be completely neutral and governmental bodies that change it are posited to be entirely disinterested. It is not a model with much empirical support among those who study bureaucratic behavior, and rational choice and other political theorists, who posit self-interest as the fundamental force behind governmental arrangements, have not treated it kindly. Nonetheless, it is the model that seems to underlie the State's argument.

On the basis of widely accepted theory and evidence from other analogous cases, then, the analyst should begin the inquiry into the abolition of justice courts in Monterey County with skepticism about the State's case.

2. Historical Context

There are three competing stories of the historical context in this instance. The State's story is one in which the State as the principal actor, concentrated in the Judicial Council, pushes successfully and irresistibly for consolidating courts to promote a more efficient allocation of judicial resources at less cost. The second story replaces the State with the County. The third story paints Monterey as a county with a long and continuing history of racial discrimination, public and private, against Latinos, African-Americans, and often Asian-Americans, and it spotlights increasing challenges by these minorities in the 1960s and after. Especially with the growth of the Latino population and the repeated strikes by Mexican and Mexican-American farm workers, and with the demonstration in the 1970 and 1979 strikes of how crucial judges were to labor struggles, the historical context, in this analysis, would make it unlikely that decisionmakers could have been ignorant of the importance of control of the judiciary, and it suggests that they might have adopted the changes at least in part to keep the courts in white hands.

The credibility of the State's story depends on the observer's willingness to rely on correlations between gross trends, to ignore detail, and to be entirely oblivious to the social, economic, and political context of the rule changes. The State focuses on three successful unification referenda – in 1951, 1994, and 1998 – and ignores all the failures in between, as well as the length of time between the first and last successful vote of the people (not to mention the fact that unification was first seriously proposed in 1879). It also ignores the County's independent course of action, its division over consolidation, and its past and contemporary history of racial discrimination. For the State, the historical context is a

monolith seen from a great distance, a view without detail or perspective.

Although more nuanced and precise than the State's picture and full of individually self-interested motives, especially among judges, the County's sketch is flawed, as well. Politics outside of the personal concerns of individuals is excluded, and the struggle over the justice courts takes place largely between governmental units (small towns against county bureaucrats) and interest groups (the bar association and various judges on different sides at different times). To the extent that larger principles are involved, the County's story adds a choice between local control and cosmopolitan uniformity to the State's tradeoff between efficiency of judicial administration, on the one hand, and inconvenience for many citizens, on the other. Retirements and the *Gordon* requirement that justice court judges be licensed attorneys gave the County the opportunity to abolish the justice courts. But what led the supervisors to take advantage of that opportunity, in this view, was a desire to increase efficiency and reduce cost.

There are four large problems with the historical context as the County's version of history presents it: First, it ignores the long history of racial and ethnic discrimination in the county – housing, employment, schools, and politics. In addition to the plentiful material on the first three topics in Section IV of this paper, one should not forget that Monterey County is a covered jurisdiction because of low voter turnout and because the State long had a literacy test. Until 1958, Monterey County voting registrars simply asked voters “Can you read?” If they answered affirmatively, they were registered to vote. After a minor scandal in Soledad in which it was shown that a dozen illiterates had been allowed to vote, Monterey County registrars began to require voters to read aloud the following sentence: “The undersigned

affiant, being duly sworn, says: I will be at least 21 years of age at the time of the [date of the next election].”²¹² While not as egregious as those in the southern states, this literacy test would have been difficult for one not entirely comfortable in English to read, and it invited subjective and possibly discriminatory determinations in disqualifying voters. It was not unreasonable to add Monterey County to the list of jurisdictions whose previous history made its future actions suspect.

Second, the County’s tale disregards all of the ethnic struggles swirling around the county in the 1968-83 period when it abolished the justice courts, struggles that often crucially involved judges – school segregation and ethnic self-assertion, employment discrimination, and most of all, labor strife between the overwhelmingly Mexican-American UFW and the predominantly Anglo grower-shippers. To accept the County’s narrative completely requires one to imagine that the supervisors and other governmental and non-governmental actors in the drama were entirely oblivious not only to what was going on outside governmental offices, but to what was taking place all the time in school boards, city councils, and courts.

Third, the County’s reputed motives in this story – judicial efficiency and cost reduction – are dubious. At least as early as the 1960s, judges, even justice court judges, filled in for other judges. One reason that Salinas and Monterey municipal court judges gave for not combining their courts in 1972, as the Judicial Council desired, was that they already shared administrative arrangements and judicial assignments, and the combined municipal court judges gave the same reason for opposing abolition of the last two justice courts in

²¹²SC, Nov. 3, 1965, 1.

1983.²¹³ It was, in fact, quite common in California to assign cases to judges who were not elected or appointed to serve in the jurisdictions where they sat temporarily. In 1970, judges in the state spent more than 3500 days sitting in other municipal court jurisdictions.²¹⁴ Moreover, justice courts, as their proponents never tired of pointing out, were inexpensive because their judges had smaller salaries than municipal court judges, their facilities were cheap because rents were less in small towns than in big cities, and whatever the County saved, if anything, would come at the expense of citizens who would have to travel further and take more time off work and small towns who would have to send some of their few police out of their jurisdiction to testify in cases in Salinas or Monterey. Finally, once the consolidation occurred, there were still court rooms and associated facilities in Salinas, Monterey, and King City which had to be expanded to fill the needs of an ever-increasing number of judges, a great deal of whose time was taken up with the same traffic and parking violations that had occupied the justice court judges.

Fourth, why did the County, which was well aware of its responsibility under the Voting Rights Act to submit all changes in electoral arrangements to the Department of Justice, never submit any of these? In December, 1975, as it was beginning to consider the largest reordering of its courts since 1951, the Monterey County Board of Supervisors voted unanimously and with hardly any discussion to support an action by the California Secretary of State's office to excuse Kings, Merced, Monterey, and Yuba Counties, the four California

²¹³SC, Sept. 20, 1972, 1; Nov. 22, 1972, 11.

²¹⁴Daniel C. Minter, "Trial Court Consolidation in California," *UCLA Law Review*, 21 (1974), 1043, 1100.

covered jurisdictions, from the necessity for preclearance under Section 5 of the Voting Rights Act.²¹⁵ After the 1981 and 1991 redistrictings of the Board of Supervisors, the County made voluminous and very useful submissions to the Justice Department to meet its Section 5 responsibilities. That it failed to comply with a law that it was manifestly aware of in the instance of changes in the boundaries of justice and municipal court election districts raises the suspicion that the County thought it had something to hide.

To what has been already summarized about the historical context of the third or history of discrimination story, one need only add the threat or promise (depending on one's point of view) of Cesar Chavez to elect pro-farm worker judges and the burgeoning number of Latino and African-American candidates for office in the county during the period of consolidation. It was easy to imagine a Jose Ramos, almost successful in the Soledad-Gonzales justice court race of 1976, winning a later contest, and UFW members accused of trespassing to talk to replacement workers or of assaulting Teamster guards, staring up at a more sympathetic face on the bench. And since during the years from 1951 to 1989, at least seven justice court and seven municipal court judges in Monterey County ascended to higher judicial office within the county, it was possible to foresee at least a gradual integration of what was until 1994, in the wake of the first decisions in the *Lopez* case, an all-Anglo bench.²¹⁶ Removing the possibility of electing judges from smaller electoral districts, where

²¹⁵SC, Dec. 17, 1975, 18.

²¹⁶The justice court judges who became municipal court judges were: Ray Baugh and James Jeffrey in 1952, Robert O'Farrell in 1975, Fred Novinger in 1980, and Alan Hedegard and Howard Hudson in 1984. Gordon Campbell moved to the Municipal Court in 1959 and the Superior Court in 1962. Municipal judges who moved up to the Superior court were Elmer Machado in 1964, E.G. Leach in 1971, Nat Agliano in 1972, William Stewart in 1974, Robert

African-Americans and especially Latinos might be more concentrated, helped insulate the judiciary from the increasingly insistent voices of excluded minorities.

3. Text of Laws or Lines of Districts

The County ordinances that ended the justice courts in Monterey County were passed over a period of fifteen years, and that in itself is significant. Had cost and efficiency been the only considerations, and had abolition clearly accomplished those desiderata, then the courts would have been terminated in 1951 or, anyway, long before 1983. It is also instructive to note that when the courts were finally consolidated, the only thing fully consolidated was the electoral districts, for there were still three branches of the courts in Salinas, Monterey, and King City.

Why were there not three electoral districts? It cannot have been because there were not enough people in each, for it would have been easy to gather 40,000 people into a district anchored in South County. It cannot have been because of State constitutional or statutory provisions that judges could not be assigned outside their districts, because that was broken all the time. It cannot have been that the members of the Board of Supervisors were loathe to draw odd-shaped districts or districts that combined different parts of the county, for they had done so readily enough in 1971 and 1981. And it cannot have been that the Board feared to draw districts with different numbers of electors, for they could always have assigned different numbers of judges to each, as they had always done. The conclusion must be that the principal object of court consolidation was to impose an at-large system of voting for all of the

O'Farrell in 1981, Maurice Jourdane in 1982, and William Curtis in 1989.

judges, an object whose consequences were obvious.

4. Demographic Facts

In 1970, 20.4% of Monterey County's people had Spanish surnames, but they were heavily concentrated in certain areas – 75% in Soledad, 64% in Gonzales, 50% in Greenfield, 51% in Castroville, 49% in Pajaro, but less than 10% in Monterey and 15% in Seaside. Attachment 1 to the State's July 19, 2000 submission to the Department of Justice contains estimates by Dr. Jeanne Gobalet of the Spanish surname percentages for the nine justice and municipal court districts as they existed in 1970. Of the seven justice court districts, two had Hispanic population majorities, and two more were more than a third Hispanic. As population aged and more became citizens, Latino voting majorities would predictably appear in these districts within the near future. In 1980, the county's Hispanic population had grown to 26%. By 1990, the Latino proportions that lived in the areas that had elected justice court judges in 1970 had grown markedly. Four of the seven were above 60% Hispanic, and another was 40%. The County as a whole was 33.7% Hispanic. Both the population growth and the uneven distribution suggested that the Latino threat to end the Anglo monopoly on judicial offices in Monterey County would have been considerable, if the justice court or even sub-county municipal court districts had been preserved. The African-American population was smaller and did not grow as fast, but it was highly concentrated in Seaside, which was 20.4% black in 1970, and Marina, 17.7% black in 1980, and of course, nearly all African-Americans were American citizens. As the candidacies of Jane Van Hook, Pearl Carey, and Jack Simon in the 1970s showed, blacks were not reticent about trying for office in Monterey County, and

depending on how sub-county judicial districts were drawn, blacks, as well as Latinos might have fielded candidates. Thus, demographic trends suggest ethnic reasons for abolishing sub-county districts.

5. Climate of Racial Politics

Anglo politicians in Monterey County did not openly race-bait in the period from 1960 on, or at least I have found no evidence of such appeals in the newspapers so far. But ethnicity pervaded the political scene in the county in three respects: First, issues of discrimination that had to be decided by elected bodies – school integration and bilingualism, employment discrimination, and the provision and regulation of housing – repeatedly agitated the public during this period. Politicians like Kenneth Blohm, justice court judge, school trustee, and county supervisor, took strong stances on these issues, and the public seemed both deeply agitated and deeply split over them. Second, this was the era in which appreciable numbers of minority group candidates ran for office for the first time. From the 1920s through the 1950s, politics in Monterey County had been an all-white affair. It no longer was, and as their responses on school policies and in school board elections especially underlined, many Anglos felt threatened. Third, the bitter struggles in the fields and packing sheds had unmistakable ethnic overtones: “Viva La Huelga!” Chavez’s saintly appeal, his fasts and banner-filled marches, were partly nationalist and quasi-religious, and the growers’ counter-campaigns, which used such images as the Anglo father’s daughter, cited above, relied partly on a white backlash against darker-skinned field workers. Compared to the rhetoric of the post-Reconstruction or early civil rights era South, the racial discussions in politics in

Monterey County during this period were muted and subtle. But they were certainly part of the dialogue.

6. Background of Key Decisionmakers

County supervisors in California are difficult to research: their visibility does not match their power. Moreover, after the *Griffin* decisions, there was a large amount of turnover on the Monterey County Board. Often, supervisors did not serve out their terms, and their places were filled by gubernatorial appointment. During this period, Beauford Anderson, Robert Bolman, Willard Branson, Loren Smith, and Ellis Tavernetti were all appointed by Governor Ronald Reagan, and Sam Farr was appointed by Gov. Jerry Brown. It is not easy to find biographical droppings, as it were, from these birds of passage.

Most were Republicans or, like Michal Moore, became Republicans soon after election to the Board. But not all. Sam Farr, who represented Monterey on the Board for the 1976 and 1979 votes on consolidation, and Barbara Shipnuck, who represented Salinas for the 1979 and 1983 votes, were moderate to liberal Democrats who supported court unification. Warren Church, who represented the North County in votes from 1967 through 1976, was also a Democrat, but he opposed the abolition of the justice courts. It is likely that the differences in their voting patterns reflected not so much their personal preferences as the interests of their constituencies. In any consolidation, Monterey and Salinas would keep their courts. It was not Farr's and Shipnuck's constituents who would have to travel annoying distances to contest small claims, traffic actions, or misdemeanors, not their friends who might have to pay higher local taxes in order to hire more police because some would be absent testifying in the cities,

not their voters who would lose the local control over institutions that people in the county so prized. Among their more influential constituents, lawyers in Salinas and Monterey would always be able to practice close to home if the small town justice courts were dissolved. Moreover, because some supervisorial districts had larger percentages of non-citizens or transient soldiers, and some were more affluent than others, there were many more voters in the Second (Salinas) and Fifth (Monterey) districts than in the average district. In 1976, for instance, 50.7% of the registered voters in the County resided in those two districts.²¹⁷ Monterey peninsula and Salinas voters could thus control elections for every judicial office in a consolidated Monterey/North County/Salinas Municipal Court district (1979) or one encompassing the whole county (1983). On the other hand, to preserve any control over judges for his constituents, Church had to oppose abolition of the justice courts, which he did. For Church, Farr, and Shipnuck, it appears that district interest, not personal predilection, weighed more heavily in their votes on the abolition of the justice courts.

When Church retired, he was replaced by Kenneth Blohm, who served as judge of the Castroville and then the Castroville-Pajaro Justice Court from 1963 to 1974, when he became a trustee of the North County School District, bluntly opposing integration and affirmative action. In 1976, he beat African-American Jack Simon in a “mudslinging” campaign for supervisor, and on the Board, Blohm served as a staunch member of the controlling “conservative bloc.” During that campaign, according to the *Monterey Herald*, Blohm “stressed decentralization of governmental control,” an observation that makes it even more important to explain his vote to merge the Monterey Peninsula, North County, and Salinas

²¹⁷*DPH*, Oct. 18, 1976.

Municipal Courts into one district.²¹⁸ Although Blohm did not comment on the issue, so far as I have been able to tell through newspaper research, in his case, some consideration overcame his commitment to decentralization, his personal experience as a justice court judge, which must have predisposed him to retain the court, and his constituency's interest in local control. Blohm's record suggests that it was his ethnic views that caused him to cast the crucial swing vote for consolidation in 1979. His successor, Marc Del Piero, who supported the abolition of the last two South County justice courts in 1983, was the son of a North County grower. The younger Del Piero ran badly in some minority areas of his district and was anxious to drop the multicultural city of Marina from it in the 1981 redistricting.²¹⁹ His vote for consolidation seems easier to explain.

Dusan Petrovic, who served in the South County Third District from 1975 through 1990, ending a period of rapid turnover in that seat, was a controller for a tomato firm, and thus was closely tied to grower interests. On the other hand, there were more justice courts in his South County district than in any other, and his constituents would have to travel farther than anyone else in the county if those courts were abolished. These cross-pressures may account for Petrovic's changing positions on the issue, particularly in 1976, and they may suggest why he did not fight harder against the 1983 change that left a court in King City, but elected all judges county-wide. The move reduced the inconvenience and expense for South Countians, but avoided the threat of allowing smaller constituencies, which might be dominated by the growing Latino population, to choose the judges by themselves.

²¹⁸*DPH*, Nov. 3, 1976; Nov. 8, 1978.

²¹⁹Del Piero deposition in *Gonzalez*, 2-5, 24-26.

7. Other Actions of Key Decisionmakers

Like other governmental units in Monterey County, the County government had to be sued to end its discriminatory practices against prospective minority employees, and again like the other units, it failed to live up to its bargains, never attaining its overall hiring goals, which had been set in a consent decree in a federal anti-discrimination suit, and concentrating its African-American and Latino workers on the lower job rungs. In 1981, as Section IV-J of this paper shows, and 1991, as a section of my paper written for the *Gonzalez* case, but not included in this report, demonstrates in detail, the Board of Supervisors discriminated against African-Americans, Asian-Americans, and Latinos in the drawing of supervisorial districts. Since employment policy and redistricting are among the most important decisions a board of supervisors makes, the Monterey County Board's conduct in these two areas suggests that it would have been consistent for it to act on justice court abolition out of discriminatory motives.

An example makes the point more graphically. When Israel Valdez, Jr., chief of the equal employment opportunity office of the federal Urban Mass Transit Administration's Civil Rights Division, suggested that Monterey Peninsula Transit should recruit more heavily among Spanish speakers and that questions about previous supervisory roles in its interviews for administrative positions might discriminate against previously-excluded women, Sup. Moore denounced the suggestions as "a lot of crap."²²⁰ In 1979, Moore wanted to abolish the North County court and split the North County area between the Monterey and Salinas Municipal Courts. Such an arrangement would have diluted the influence of North County

²²⁰*DPH*, Nov. 14, 1977.

minority voters nearly as much as consolidation of the three courts did.

8. Statements by Important Participants

The record is devoid of statements of discriminatory intent concerning abolition of the justice courts by either proponents or opponents. That is hardly odd, considering the usual discourse about courts, which places them on a different plane from other governmental offices, and considering the muted tone of statements about race in campaigns from 1976 on, when there were more and more minority candidates running. But there are many instances, including the passage of electoral laws in Mississippi in 1967 that were clearly meant to choke off the black political threat raised by the increased registration after the passage of the Voting Rights Act,²²¹ the 1959-81 supervisorial redistrictings in Los Angeles County,²²² and the 1981 and 1991 supervisorial redistricting in Monterey County, where we have no or few surviving “smoking gun” statements from the framers of the acts. Yet circumstantial evidence from these and numerous other instances makes clear that the laws or districts were intended to discriminate against racial minorities. Moreover, statements about the purposes of laws may be misleading, especially if they are bland and formulaic or grandly philosophical. Southern disfranchisers in the late nineteenth century sometimes claimed only to be motivated by a desire to end corrupt politics, and a wide variety of movements from the beginning of the republic claimed only to be interested in “reform.” Statements of purpose by politicians who

²²¹See Frank R. Parker, *Black Votes Count: Political Empowerment in Mississippi after 1965* (Chapel Hill, N.C.: University of North Carolina Press, 1990).

²²²See my *Colorblind Injustice*, chapter 2.

frame laws are never either necessary or sufficient by themselves to determine intent.

9. State Policies and Institutional Rules

Because large parts of parts II and III of this paper have directly addressed the question of whether the laws or policies of the State of California dictated or accounted for the abolition of the justice courts in Monterey County, little remains to be said. The State had no clear, authoritative policy on justice courts before 1983, the County did not follow the suggestions of the Judicial Council, and it was the Board of Supervisors, not any State body, that made the crucial decisions. Far from dictating the abolition of justice courts, the State's most important intervention in the process, the *Gordon* decision, breathed new life into them by requiring that they be staffed by qualified attorneys, raising them much closer to the plane of municipal courts. Eventually, if Monterey County had kept the eight justice courts that it had had in 1967, the 1994 State referendum would have dissolved them. But by that time, several would very likely have had Latino and/or African-American judges, and the State's action would have raised different legal and political questions.

10. Impact

Impact is relevant to intent because it may be foreseen or so obvious that one can assume it was foreseen. The latter is certainly the case here. No one in the Salinas or Pajaro Valleys in the 1970s needed to be told that the Latino population was rising or that it was increasingly assertive. Dr. Gobalet's estimates of the Hispanic population percentages in the justice court districts strongly suggests that the group would have comprised effective voting

majorities in several districts during the 1970s or 80s, had the districts continued. A shift from districts in which Latinos composed over 60% of the population to a district – the county as a whole – in which they composed just over a third surely seems retrogressive. Because it was easy to foresee that the Hispanic population would rise to something like those heights, the changes must have been made with at least an awareness of their retrogressive impact.

11. Three Competing Hypotheses about Intent

Of the three stories, the State's is the least convincing – abstract and oblivious to evidence. The County's is more plausible, and it seems to explain some of the events and some of the motives. In particular, the *Gordon* case and the drive by some justice court judges to increase their salaries and prestige by transforming their courts into municipal courts or becoming court commissioners accounts for the timing of some of the events of 1976, and supervisors like Sam Farr were probably partly motivated by a desire to modernize the judicial system. But the County view does not easily encompass the behavior of supervisors like Kenneth Blohm, and many of the supervisors who served during the period showed little affection for centralization and modernization, or any form of “progressive” change, yet they voted to end justice courts. Although the evidence connecting the County's heritage of discrimination directly to the abolition of the justice courts is imperfect, it explains the necessary votes of some particular supervisors that the County narrative cannot, and it does not isolate the decisions from everything else that was going on in the County at the time. While the County's discriminatory heritage does not wholly explain the motives behind abolition of the justice courts, it is a necessary part of any complete explanation.

