

### We the Miners: Self-Government in the California Gold Rush

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## Review

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**McDowell, Andrea G.** *We the Miners: Self-Government in the California Gold Rush*. Harvard University Press, 2022. HARDCOVER \$39.95 ISBN 9780674248113 pp. 327

To the perennial question of how the West was won (or lost), Andrea G. McDowell supplies a surprising answer: “parliamentary procedure.” In *We the Miners: Self-Government in the California Gold Rush*, McDowell, a historian and law professor, explores the mechanisms that majority-white American fortune seekers deployed to bring a modicum of order to the scramble for wealth, even as they rode roughshod over Native Americans, Mexicans, and non-Americans. She argues that the rules of order at miners’ meetings—a “boring” subject in itself—represented a “superpower” for Americans in the diggings because they “enabled groups of miners, often complete strangers to one another, to organize on the spur of the moment” (15, 259–60).

As diplomats were negotiating an end to the U.S.-Mexican War in early 1848, glints of gold became manifest in California’s riverbeds, precipitating a mad dash into the region before California was a state or even an organized U.S. territory. In the absence of American structures of governance, the miners convened meetings in camps across the region and conducted highly consequential business, from enacting mining codes and launching engineering projects to staging criminal trials, expelling foreigners, and resisting large mining monopolies. Their faithful adherence to motions, resolutions, and other niceties of process—a habit imbibed from the vaunted American culture of voluntary associations that had so impressed Tocqueville—added up to a distinct “form of governance” that reigned supreme in California (5).

Scholars have overlooked the central role that parliamentary procedure played in the Gold Rush. “But once one starts to pay attention, one sees orderly formal procedures everywhere,” McDowell observes (15). She is not the first to spotlight how Americans prescribed order in the West. Legal historian J. Willard Hurst, for example, underscored how squatter associations or claim clubs were forces for lawfulness and development on the frontier.

Donald Pisani, whom McDowell frequently cites, has cast light on the legal regimes that attended the exploitation of resources in California and beyond. Building on this work, McDowell makes a persuasive case for the significance of miners' meetings, illuminating a neglected dynamic of frontier democracy.

McDowell examines the state of play as thousands of miners flooded into California and scoured the diggings "more like hunter-gatherers than property holders" (19). Over time—and countless meetings—they forged the rules and regulations that governed the quest for precious metal. For a population impatient for riches, the miners spent a remarkable amount of time in these meetings—a reflection of the stock they placed in them. Adopting a comparative approach, McDowell highlights parallels between California and gold rushes in Australia, Brazil, Canada, Papua New Guinea, and West Africa. Unlike places such as Australia and Canada, where the government imposed the mining rules, California miners adopted codes early on at their meetings, setting ground rules that privileged labor over capital and establishing handy means to resolve contentious matters like the size or number of claims per person.

One of the key functions of the meetings was administering "justice." Accordingly, McDowell devotes multiple chapters to legal proceedings. She takes pains to define the form favored by the miners as "lynch trials," tracing the history of the term back to Revolutionary era militia commander Charles Lynch and noting that its later association with mob murders of African Americans superseded other usages including the discharge of judicial functions in remote places lacking official courts. For McDowell, lynch trials constituted "the true criminal law of the frontier" and "the ultimate example of self-government through parliamentary procedure" (144, 168). She makes a sharp distinction between Gold Rush trials and vigilantism, "the former being public and democratic, and the latter being run by an organized group that reached its decisions behind closed doors" (136-37). The goal of lynch trials "was justice rather than self-defense" (137). That justice, it turned out, was often of the roughest kind. McDowell contends that initially the trials proceeded with due caution and delivered fair verdicts. However, the miners persisted in holding their "lynch trials" even after state courts emerged in California and, in their thirst to exact penalties, they lost their way. "When the crowd was induced to grant the prisoner a lynch trial only on the promise that he would be hanged, it was not a trial as we understand it, but an empty formality," she notes (204).

The meetings also failed to restrain miners from massacring Indians and subjugating and displacing Mexicans and non-Americans. “What the Americans did to those groups was much worse even than lynching: it was genocide, open season, mass expulsion, and theft without repercussions,” McDowell writes (144). Indeed, the brutal treatment of minorities revealed the dangers of “pure democracy” without checks and balances. With white American miners holding “ultimate authority, the native population and foreigners in the mines were unprotected; their rights were not guaranteed, and they were not represented at meetings. As far as the majority of Americans were concerned, they had no rights and no status” (261).

Oddly, the miners’ meetings at the heart of the book lack vivid color in McDowell’s rendering. McDowell anticipates such a critique by explaining that records of the gatherings “lack excitement” (15). The sense of vagueness gets compounded by the author’s tendency to furnish partial facts when illustrating a point, such as identifying a person by their last name only, with scant details to orient the reader. More substantively, McDowell misses opportunities to set events in California in the context of important currents of the period, noting, for instance, that the miners were practicing a form of “popular sovereignty” without reflecting on how fraught that dynamic had become in relation to the issue of slavery in the American West.

*We the Miners* concludes in the post-Gold Rush days. By the early 1850s surface gold had grown scarcer and hydraulic mining emerged as the most efficient mode of extracting the metal. Battles over water rights became the order of the day. As “monster monopolies” flush with outside capital muscled out the competition, miners used their organizational acumen to fight back, launching the joint-stock Columbia and Stanislaus River Water Company to dig a canal to ensure their share of water. But the ditch’s completion in 1858 proved to be too little too late.

Reflecting on the legacy of miners’ fidelity to parliamentary procedure, McDowell suggests that “[e]ven today, we are in some degree obliged to the Californians of the gold rush era every time we participate in faculty meetings and teacher-parent organizations and charitable boards” (257). That may overstate the case but her book does admirable work unearthing overlooked dimensions of U.S. democracy and frontier law, while enriching our understanding of a storied chapter of American history. At times high-minded and at times heinous, the miners’ meetings were a driving force of the California Gold Rush.

*Historian John Suval is author of Dangerous Ground: Squatters, Statesmen, and the Antebellum Rupture of American Democracy (Oxford University Press, 2022): [johnsuval.com](http://johnsuval.com)*