Comments on Usselman

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Summary

• Excellent paper
• Took a good draft and make it far better
• Fascinating new dataset www.9CHRIS.org

• Summary: Ninth Circuit Court of Appeals creates protected IP environment for West Coast manufacturers

Evarts Act of 1891, which creates the Court of Appeals between the District Court and US Supreme Court, works against the centralizing tendencies of the age
West Coast as a Separate Country

- Immigration Policy – Anti-Asian discrimination; restrictions on property rights; violations of civil liberties
- Tariffs and Transportation
  -- uses Sec. 4 in ICA to create hinterland to Rocky Mountains
  -- RR offset traffic changes with corresponding freight rate changes
- Money and Banking -- stays on Gold Standard from 1861-78
  Federal Reserve 12th District; branch banking
- Now Patents and Technology
  Kind-of knew this already: A standard account of the Film Industry movement to SoCal attributes in part to an attempt to escape Edison’s Kinetoscope patent enforcers
Nitpicking

• Would like a graphic of how the court system operated
• Definitions: How is “outsider” defined—Raisin Seed Machine example
• Don’t have a basis of comparison

Very rich special dataset—“special” is a bug as well as a feature
• Provide statistical breakdown in bivariate cases
Could run regressions to make multivariate comparisons and test hypothesis

• Language issues: many causal statements; much pattern-seeing in random world; structural shifts; sharp rebukes that matter
Justice Joseph McKenna: Treated as a fool

- Republican Politico
- Read law and entered California Bar in 1865; DA in Solano county
- Served in House of Representative 1885-1892
- Including Billion Dollar Congress which passes the Evarts Act
  ASIDES GOP pro-farmer agenda -- open European livestock product markets
  ICC 1887-- federalized, but lowers SH and raises LH rates
- Appointed to the Ninth Circuit Court of Appeals in March 1892
- HIDDEN HISTORY Appointed US Attorney General 1897
- Appointed to US Supreme Court in 1898 (serves to 1925).
- To prepare, attended Columbia Law School
- Useful correction to view that reversals prevent promotion
Machine Seeded Raisins

• USCSRCO- United States Consolidated Seedless Raisin Company
• In 1873, G. Eisen introduces Muscat grapes to Fresno—becomes initial basis of Fresno’s rise to Raisin Capital
• In the early 1870s, George E. Pettit of San Francisco invented a machine to remove grape seeds and stems—how can USCSRCO machine receive be a “pioneer” patent?
• In 1861, A. Haraszthy introduced the Sultana seedless grape
• But in 1878, William B. Thompson of Yuba City had introduced Sultanina grapes—becomes known as Thompson Seedless—all the way from the Ellwanger-Barry nursery in Rochester, NY
• C 1900 90% of California Raisins seeded by machines.
• In 1914, crop is 76% Muscat, 14% Thompson Seedless, 9% Sultana
• 1935: 90% Thompson Seedless
Caterpillar Tractor

(Wrote with ALO Survey of Calif. Ag. Machinery, 1983)

• Benjamin Holt’s first plant is in Stockton
• Second plant is in Walla, Walla, Washington
• Additional plant is established in Peoria, Ill. by Phiny Holt.

Holt and Best merge in 1925— in part do to the heavy costs of patent and trademark battles --$1.5 million betwnn 1905-25
-- $20m in today’s purchasing power

ALTERNATIVE INTERPRETATION: poorly defined IP harmed local manufacturers (although benefited local patent attorneys)
Insider Story

• Insider court-based history
• West Coast patent attorney community  Wheaton vs. Miller
• Differences over new doctrines vs. application of doctrines
Pioneer patent– equivalents
Combination vs Mere aggregation
Would benefit from corroboration in local press: Scientific and Mining News, Pacific Rural Press, Outlook, California Fruit Grower, etc.
Also consult patent records– for these specific firms/industries
But probably wise to stay away from technical discussions
West Coast Economic Development, 1890-1925

Links to Larger Regional Phenomena
• Progressives combat Southern Pacific dominance
Where are the railroads in this story? California Progressivism b. 1907
• Shift to Intensive Agriculture associated with rise of irrigation
• Rise of Petroleum Industry
• Rise of Los Angeles
• Rapid Population and Market Growth
• Closure to Asian Migration
Summary

• Chance to meet old friends – Byron Jackson, Benjamin Holt, Best Sr. & Jr., Reese Llewellyn, George Pettit – in a new setting
• Took a good draft and make it far better
• Fascinating new dataset www.9CHRIS.org
• Rich intriguing story

Thanks