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Pre-Henry George Land Warfare in California

By PAUL W. GATES

THE RUSH OF MORE than three hundred thousand people to California between 1848 and 1860 occasioned seemingly endless boundary disputes and strife over land titles that kept California in a more or less constant uproar for decades. Outstanding was the bitter warfare over land claims which colored much of the early history of the state and provided the background against which one of America's most influential reformers and economic theorist was to construct his ideas.

A keen observer and indeed participant in the California scene wrote in 1862 of this confusion over land titles:

> California has been retarded more than thirty years ... by reason of unsettled titles and fraudulent grants of land—creating a thousand difficulties that have proved a barrier to settlers in making homes for themselves and families. Delay in fixing boundaries, frauds and wrongs perpetrated not only against the settler but against the United States, have been on a stupendous scale and operated to the discouragement of improvements. At a moderate calculation more than twenty thousand homes have been injuriously affected by these causes, and the loss in value to settlers and the state has been immense.[1]

Grateful acknowledgement is made to the Huntington Library for a summer grant that made possible the preparation of this article. It follows in fairly logical sequence two previous articles: "Adjudication of Spanish-Mexican Land Claims in California, *The Huntington Library Quarterly*, XXI (May, 1958), 213-236 and "California's Embattled Settlers," *California Historical Society Quarterly*, XLI (June, 1962), 99-130. I must also acknowledge the aid provided by the studies of two indefatigable writers on California lands, Dr. J. N. Bowman and W. W. Robinson. The manuscript "California Private Land Grant Cases Index to Minute and Decree Books" by Dr. Bowman has been invaluable. W. W. Robinson's *Land in California* and his many briefer studies of ranchos becoming cities are all delightful reading and most useful to the student of California History.

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Thus spoke Colonel L. L. F. Warren, influential editor of the *California Farmer* on April 10, 1862.

The prototype of this land warfare was the antirent wars of New York in the eighteenth and early nineteenth centuries when hundreds of tenants, disguised as Indians, resisted sheriff's forces who were attempting to eject them for failure to pay their rents. Later in Kansas, when corrupt officials in the office of Indian affairs sold reservations crowded with squatters to land companies and railroads, the settlers organized to resist efforts to compel them to pay for their farms. In Iowa settlers, who had gained title under pre-emption and homestead laws and had created successful operating farms on land subsequently claimed by a river improvement company and who were ruthlessly dispossessed by court action, joined together to recover their land or, failing in that, to gain compensation for their improvements.[2] Antirentism or agrarian warfare occurred at every stage of the development of the frontier but while there are similarities there are also marked contrasts.

What makes the California story unique is that it involved Spanish and Mexican land law, interpreted in United States courts by American lawyers and judges who were not altogether familiar with it and who remolded it by the application of federal and state laws. In the process of Americanizing Spanish and Mexican land law, the rigidities of Anglo-Saxon common law with its deep respect for property rights untempered by equity clashed with frontier conceptions of settlers' rights based on natural law.

Basic to the troubles in California were the 813 Mexican land grants of which 87 had been signed only a few days or weeks before the Mexican War ended Mexican control. Some of them were forged or antedated. Although they had been given for grazing ranchos, the grants included most of the best land suitable for agriculture, and few of these lands had been developed to any extent. As for other territories transferred from foreign ownership, Congress established a Land Commission to consider and confirm, where justified, the titles to these grants, but thereafter it paid little attention to the commission. Whether appointed by President Fillmore or reconstituted by Pierce, in 1853, the commission was filled with lame duck politicians and political hangers-on who had no great learning and who were

ignorant of the Spanish language—the language of the original documents. Beset by political changes, displacements, resignations, illness and absenteeism, and by low salaries, the commission was not an efficient body. It was reversed 280 times out of less than 800 cases, and yet it showed a greater inclination to examine the claims critically than did the United States District Court and the Supreme Court. Ogden Hoffman, federal district judge, before whom most of the commission's decisions came on appeal, doubtless had a better legal mind, a more judicial temperament, a greater respect for law than the commissioners; but he seems also to have had a greater respect for written documents, for verbal testimony of officials of the Mexican regime than the facts warranted, and he confirmed claims which the Supreme Court later concluded should be rejected. The Supreme Court, however, generally followed the Hoffman line rather than that of the commission, particularly during the first few years.

Few Mexican titles had been carried to the equivalent of the American patent, and the courts came to accept something less as title, but they never made completely clear what proportion of the intricate Mexican process of confirming grants would be sufficient. Once the title to a claim was confirmed, the next step was to have the land surveyed by a government surveyor. None of the larger claims had been bounded with any exactitude in the grants; some were quite indefinite, merely being defined as so many leagues in a very broad area. Some were mere floating grants. When, therefore, the Surveyor General began the survey of confirmed claims he had much latitude in running the lines. Since all land outside the claims was public domain, and after 1853 subject to pre-emption, settlers, knowing that the claims included most of the best agricultural lands, tried to locate close to them. Some settlers clearly misjudged the boundaries or took the risk of locating their improvements so close that, by minor adjustments when the Mexican grant was surveyed, they were included within it. Still others, assuming that the large claims, which were as much as 133,000 acres and but slightly if at all developed, were bound to be rejected, established their improvements wholly within the boundaries which might be expected to be established should the titles be confirmed.[3]

It was these improvements on the periphery of the claims that

attracted the greed of owners of ranchos who tried to extend their boundaries to include them. Over and over again the charge was made that the owners were influencing the surveyors acting for the federal government to disregard the terms of the original grants and to extend the surveys over the best of the improved land on their periphery. One settler-oriented newspaper charged the Surveyor General of California with being the mere "locating agent of these Greaser Lords and thieving Land Grabbers."

> It is well known that the deputy surveyors are closely attended by the owners and claimants of Mexican ranches whilst the survey is being prosecuted—that the lines are invariably run in accordance with the wishes of claimants, and that it is only necessary to espy a new fence or a good house to change the course and take it in. In fact, we know one man, a deputy surveyor who went so far in his disinterested enthusiasm to claimants of a large rancho near Marysville as to find a river and so mark it in his notes that no one else has ever been able to discover . . .

The writer held that the power resting in the hands of the surveyors should be curbed or bloodshed would follow. It was even charged that one of the most respected owners of ranches had paid several thousand dollars for a favorable survey of his Sacramento Valley rancho.[4]

On the Mariposa grant of John C. Frémont major discontent developed. Here the boundaries were changed to push the claim well into the mountains where gold was being mined. The action of the Land Commission in approving the grant in the first place had not been well received in California, for there were many lawyers who felt Frémont's claim was without merit. Judge Hoffman, before whom Mariposa next came for adjudication, could find no reason to confirm a claim that had so completely failed to meet the requirements of Mexican law; he was convinced that all American precedents made its rejection unavoidable. When, however, the case was presented on appeal to the Supreme Court by a combination of politically potent legal talent, headed by Thomas Hart Benton, and was weakly defended by the government, the court wavered. In a split decision, with two judges dissenting and a third absenting himself but later saying that he agreed with the dissent, the Supreme Court confirmed the grant.

Mariposa was a floating grant which permitted the location of a rancho within certain broadly defined areas. Since it was intended for grazing cattle, it should have been located on the largest possible amount of grass land at low elevations. Instead, when gold was discovered in the foothills of the Sierra and miners began to work rich placer and quartz deposits, Frémont moved the boundaries of the claim around to include "the valuable Pine Tree and Posephone mines ... besides a number of others which had been in the undisputed possession of miners who had long been familiar with Frémont and had never heard the least intimation from him that he would ... lay claim to their works." Elevations higher than 5,000 feet were now included. The work of miners and mining companies expended over months and years was thus swallowed up in Frémont's claim. Colonel Samuel W. Inge, former federal district attorney, said it was monstrous to pretend that Frémont could locate his claim upon the possessions and improvements of others without compensation to them, particularly when their improvements had been made with the express approval of the California legislature and after repeated decisions of the courts.[5]

When Frémont invoked the law to eject companies with long standing investments within the area he claimed, he stirred up a hornet's nest. Miners and mining companies resisted posses and kept the area in turmoil for months. Encouraged by a decision of the California supreme court questioning ownership of minerals, a former-sheriff of Mariposa County declared that he would use all his energies to prevent the government from wrenching by force the improvements made in good faith by miners. For years residents of the Mariposa area had abundant cause to regret the decision of the United States Supreme Court in confirming the Frémont claim and later decisions confirming the mineral rights to Frémont, not only because they plunged the county into turmoil and restricted mining activity, but also because Frémont's assignees long attempted to avoid the payment of taxes.[6]

The overwhelming precedent the Supreme Court established in the Mariposa case is seen in the record of the four-to five-league Bolsa de Tomales claim of James D. Galbreath in Marin County. The claim was confirmed by the commission and by Hoffman, notwithstanding

the alteration of dates in the original grant, the forged certificates of approval, and the knowledge that the signature of Governor Pico was either forged or written long after the supposed date of the grant, and that possession was not in accordance with Mexican law. The Supreme Court gagged at the clear evidence of fraud and sent the case back to the district court for further consideration. Again, Hoffman confirmed the claim; for the Mariposa decision with its loose interpretation of Mexican land law stood out in his mind like a great landmark and until it was modified or reversed he insisted on abiding by it. On the second appearance before the Supreme Court it was flatly rejected.[7]

After the first reversal by the Supreme Court of Hoffman's decision in the Bolsa de Tomales case, Hoffman was said to have remarked that "he did not understand the decision of the Supreme Court; that they confirmed and rejected claims in which he could see no material distinction; that it was his opinion, or rather that the only reasonable construction that he could put upon their conduct, was that they had not time to read their previous decisions." Hoffman is quoted as adding that if the members of the Supreme Court "adhered to the decision in the Fremont case, they must confirm such cases" as the Bolsa de Tomales grant. On the other hand, if they clung to their more careful decisions of later years "they should not confirm any claim when the parties had nothing to show but a piece of paper."[7a]

On the W.E.P. Hartnell Consumnes claim in Sacramento County, originally of eleven leagues but subsequently reduced to six, there was much friction. The uncertain title, the vague boundaries, and the unsatisfactory character of the original survey enabled Hartnell and his assignees to maintain for years a shadowy claim over territory three times the acreage called for and to keep that amount of land out of the public domain and not subject to pre-emption. With ownership at first uncertain and conflicts with settlers continuing long after confirmation, improvements were poor.[8]

Settlers suffered greater hardships on Los Moquelemos, a 48,000 acre grant of Andrés Pico in San Joaquin County. This claim was rejected by the Land Commission in 1852 because of the complete absence of record in the archives, clear evidence of fraud and perjury, and failure of the grantee to develop it. Notwithstanding, on appeal,

it was confirmed by Judge Hoffman. The government side had been poorly presented by its legal agent, as was commonly the case in land disputes in California in the early years of adjudication, and Hoffman was again influenced by the Mariposa decision in which the Supreme Court had refused to consider the failure to perform conditions in the grant as fatal to the claim. Hoffman's confirmation of Pico's title was a blow to many settlers who had moved on Moquelemos, expecting the commission to be upheld and, at the same time, encouraged by the action of federal land officials who surveyed the grant, declared it open to sale and settlement, accepted applications, and granted patents. Unfortunately for the settlers, the California Supreme Court had declared that when a claim with a specific amount of land was confirmed by a court of the United States, the owner was entitled to possession and the right to eject and distrain settlers. Even though they had bought the land from the government, settlers now, it appeared, had to come to terms with Pico or be ejected and have their personal property seized for back rent. The more timid of them did buy their tracts from Pico, an action which was strongly deplored by others. On appeal to the Supreme Court the case was returned to a lower court for further evidence, though the presiding judge thought it "wholly destitute of merit." After further consideration the district court rejected the claim, and the Supreme Court affirmed its decision in December, 1864.[9] Mariposa was losing its earlier great weight.

Settlers' rights on Moquelemos, whether based on federal patents or pre-emption or homestead claims on their way to patent, were still uncertain, however, for the Western Pacific Railroad now claimed the alternate sections as part of its land grant. The railroad argued that the Pico claim was never valid and therefore the land grant act of 1862 applied to this land. Officials of the General Land Office accepted this argument and awarded the alternate sections to the railroad, even though settlers may have been on the land prior to 1862. Ultimately, the Supreme Court reversed the land officials and enabled the settlers to get title to their claims but only after they had become involved in long and expensive litigation.[10]

Settlers in San Joaquin and Sacramento counties were much disturbed at the existence of the eight league Zanjón de los Moque-

lumnes claim of Anastasio Chabolla because as a floating grant its boundaries could be pushed in any direction within a broadly defined area. Rejection of the claim by the Land Commission in January, 1854, because it had neither been approved by the Departmental Assembly of Mexico nor had juridical possession been given, encouraged settlers to move on it. However, when the case came on appeal to the district court twenty months later and was presented weakly by the government legal officer, Hoffman reversed the commission on the basis of the Mariposa precedent and confirmed the claim to 35,510 acres, to the great distress of the settlers. Controversies over boundaries delayed the patent until 1865.[11]

There were three other Chabolla claims in the vicinity of San Jose, one of which was confirmed and patented but the other two were more dubious and were rejected. One was not finally dropped from litigation until late in 1861. Complicating the land problems in the vicinity of San Jose was the pueblo grant which was not finally patented until 1884. This land, amounting to 55,000 acres, was mortgaged by the city, the mortgage was foreclosed, and the mortgagee sold 500 acre tracts part of which were claimed by the Chabolla estate. Neither the pueblo claim nor the Chabolla claim had yet been settled by the courts when settlers, believing that both claims would be rejected and that the land would become public domain, moved on the land, made substantial improvements, and thought of themselves as established residents with major equities. Matters came to a head in 1859-1861 when attorneys for the Chabolla family and for a number of the 500 acre claimants under the pueblo claim sued out writs of restitution against settlers, numbering 150. When threats of ejectment were made and sheriff's posses were used to remove occupants, some of whom had bought titles from one or the other of the claimants, the settlers flared up in mighty indignation. After preliminary skirmishing, in which the law did not come off well, the sheriff attempted to swear in two hundred deputies to aid him in accomplishing his objective. The posse was met by an armed band of five hundred to one-thousand persons determined to fight if necessary to protect their homes.[12] That the issues involved in the fracas differed from other settler-claimant controversies is shown by the following statement of one of the leaders of the Chabolla settlers:

We are banded together for the sole purpose of holding our homes until land thieves decide who has the title. We are not particular who gets it, so that when it is finally settled we can purchase without fear of being troubled with another claimant.

The writer stated that the settlers would not permit the forces of law to carry out the ejectment writs no matter what the penalties, for there could be no peace in the region until the ownership was determined. Settlers were caught between rival claimants, one of whom was shortly to lose finally his two league claim.[13]

Settler revolt against the law aroused sympathy elsewhere and attracted more attention to the beleaguered folk on the Chabolla rancho and other disputed areas of Santa Clara County than any other squatter activity had done. A dispatch in the Sacramento *Union* said that a thousand settlers in Sonoma County, itself beset with much bickering over claims, were prepared to march to San Jose to aid their fellow sufferers.[14] Papers in Napa, Sacramento, Alameda, and San Francisco took up the issue and slanted their news in accordance with their attitude toward the long series of controversies over titles that so wracked California politics.

When Governor John G. Downey declared to the settlers that the law must be upheld and asked the legislature for a large appropriation to put down the revolt, he was answered by a ringing Squatter Declaration of Rights which summarized settler grievances throughout the state. Among these grievances were the following:

1. Fraudulent grants based on forgery and perjury.
2. Floating grants located on land not intended to be selected.
3. Control of the government of the state and the courts by land claimants.
4. Extension of the grants to include areas far greater than was contemplated by the Mexican officials.
5. Assessment of heavy damages against settlers in restraint suits.
6. Loss to the settlers of taxes paid by them on land finally adjudged to others.
7. Retarding effect of large, undeveloped claims on communities.
8. Discouraging effect on immigration of land monopolization by claimants.

The settlers resolved that they would never surrender their tracts, even though the courts decided in favor of the Mexican grantees, until they were compensated for their improvements.[15]

The governor's inflammatory request was met in the legislature by cooler action. It would take ten thousand troops to put down the squatters, it was said; better it would be to send a joint committee of the two houses to work out a satisfactory compromise between the angry settlers and the equally insistent owners.[16] The joint committee proceeded to San Jose where it met with representatives of the settlers and of the claimants and secured an agreement that all ejectment suits brought by the Chabolla heirs should be withdrawn, that a suit to quiet title should be instituted, and that the question of rights be left to the Supreme Court to determine.[17] The action of the United States District Court in rejecting a two-league grant in August, 1861, relieved tension for a moment, but Congress undid all this by a special act to allow the claimant to La Posa de San Juan Bautista to submit his case to the court for further consideration. After two more rejections, making four in all, this claim went into limbo.[18] The dismissal of one of the Chabolla claims and the decision of the state supreme court in 1864, invalidating the mortgaging and foreclosure of the San Jose Pueblo lands, and in turn the 500 acre sales by the mortgagees which had conflicted with the Chabolla lands, and the final survey and patenting of the pueblo in 1884, brought issues to a conclusion. It was of course not possible for settlers to secure reimbursement for improvements they had put on land purchased from the five-hundred acre-holders, but which were found to be within the Chabolla Yerba Buena grant.[19]

Meantime, squatter controversies were breaking out in all the counties in the Bay Area, with the owners of the claims securing numerous writs of restitution and settlers vowing to resist the proceedings at all cost. Settlers' meetings were revived, resolutions threatening political activity were adopted, and resort was had to night riding, arson, and murder. A citizen wrote to the pro-settler Sacramento *Bee* on February 12, 1862:

> If there were only ten thousand California squatters in Virginia they would drive Beuregard [*sic*] and all his hosts from Manassas. They would squat upon the best land . . . law the proprietors ten years and keep them out of pos-

session, and at the expiration of that period they would fight the owners and drive them out of the country.

The Civil War would soon be over, he said, if we sent the squatters to the South.

Claim owners found another powerful weapon to turn against the settlers. Leaders of the settlers leaned strongly toward the liberal faction of the Democratic Party, but many old line Democrats were friendly to the South's efforts to establish its independence. It was easy therefore to accuse the settlers of being Secessionists, the more so because one of their ablest leaders, John R. Price, was both a Virginian and a brother of the much hated Confederate general, Sterling Price. Furthermore, David S. Terry, who had been sympathetic to the settlers' cause, was regarded as a leader of the disunionist element in California and was later to serve in the Confederate Army. Being on the defensive because of these attacks, the settlers in their convention in San Francisco in 1861 declared strongly for the Union and advocated support for Edward Norton for the United States Supreme Court but decided it was wiser not to nominate candidates for other positions.[20]

The valley of the Russian River, like that of the Salinas farther south, was lined with Mexican claims which produced such bickering and conflict that a contemporary said: "This state of things has the effect to paralyze every effort at improvement, beyond what is actually required for the immediate positive necessities of the occupant. Thus we find many wealthy men along Russian River, with no further improvements than a surrounding fence of redwood rails, and a mere shanty of boards to live in."[21] Two claims of Stephen Smith won early confirmation, and patents were issued in 1858 and 1859. Smith was said to be gentle in his relations with settlers and had little or no difficulty with them, but his widow's second husband Curtis took a different tack. Having failed to induce families on the ranchos to pay rent he began ejectment proceedings and hired a private army of forty-eight men from San Francisco to accomplish what the sheriff's force was reluctant to do. Thus he brought upon himself general condemnation of the community and failure of his objective.

Complicating the Bodega claim, now patented, were the rights of purchasers of portions of the 1,241,000 acre-claim which John Sutter had bought from the Russians. Sutter did not bring his claim before the courts, but his assignees surveyed part of it—land that was included in the Bodega rancho—and offered title to the fifty or more settlers against whom the owners of Bodega were bringing ejectment actions. Since such offers to sell the Sutter or Russian title promised to aggravate an already dangerous situation, legal action was taken to prevent the Sutter parties from selling or even advertising for sale their title.[22] Compromises were finally worked out by which Curtis, owner of Bodega, agreed to sell, where previously he had tried to rent, to the settlers at moderate prices. Local historians maintain that settlers held to their position sufficiently firmly to win major concessions and to leave the owner little for his pains. The second of Smith's ranchos, Blucher, became involved in litigation among heirs, and settlers could not determine who were owners. It was finally necessary for owners and settlers to go to court to have the tract divided and clear titles established. In this way 128 settlers finally gained the security that fee titles assured.[23]

Elsewhere in the Bay Area the story was the same: extensive settler improvements on the undeveloped portions of the Mexican claims or in their vicinity induced the owners to try to change their boundaries so as to include the most valuable of the improvements; ejectment actions to compel the settlers to move or to purchase their land; violent reaction from the settlers when the law seemed to them to be slanted against them that manifested itself in resistance and destruction of the property of both claimants and owners; and finally compromise, since litigation threatened to eat up the value of the land to the owners and to keep the settlers in poverty.

The Act of 1851, which had created the Land Commission, provided an opportunity for a review of disputed boundaries when confirmed claims were surveyed, but the process of review was not clearly defined and did not lend itself to use by settlers and other opponents having meager resources. This was brought out by a settler on El Pescadero, a claim of Hiram Grimes in Stanislaus and San Joaquin counties. Having been told the boundaries of the grant

by one of the owners, settlers took up land six miles from the boundary. The grant was later sold, and the buyer persuaded the Surveyor General to make a new survey to include the improvements of numerous settlers. Protests that the settlers had been "illegally and unceremoniously immersed in a Mexican fraud" were made without result. In 1858 a patent for the land with its new survey was rushed through the procedures of the General Land Office, emerging as the fifteenth or sixteenth among the more than six hundred.[24]

Two other claims, floated from their original boundaries to include settlers' improvements, one of which was swiftly patented, were the Sotoyome and Llano de Santa Rosa ranchos in Sonoma County. The Sotoyome claim was early docketed with the Land Commission and speedily confirmed by it and by Ogden Hoffman. After the survey had been made and the patent for 48,836 acres issued, settlers five miles distant from the bounds of the original grant learned that this "inhuman swindle" had been stretched to include their tracts. Similarly, on the Santa Rosa rancho of 13,316 acres, numerous settlers found their improvements included within the surveyed lines. On few Mexican land claims were so threatening or so destructive clashes made between sheriff's forces supported by state troops attempting to eject settlers and organized bands of residents trying to defend their homes. Ejectment and burning of the poorer homes did not always suffice: on both sides arson and murder kept the region around Santa Rosa and Healdsburg in bitter turmoil for years. A representative of the settlers declared that they had been "unmercifully harassed . . . [and] driven to the verge of revolution" by claimants using forces of the law to extend their "fraudulent survey" beyond the original boundaries of the grants.[25]

Influential claim owners and their attorneys, witnessing the growing strength of the squatter movement in politics, pushed their claims as speedily as possible in the courts. William Carey Jones in particular sensed the advantage of haste in pressing for confirmation and patenting. The Mariposa, Pulgas, and Putos claims which were represented by Jones were the second, third, and sixth to be confirmed and the first, sixth and twenty-ninth to be patented.[26] They established broad but questionable precedents that held sway for a time.

Jones secured boundaries for the claimants which did major injustice to neighboring claimants and their purchasers and to settlers and miners who lost the value of their improvements.[27]

Increasing discontent with the decisions of the Land Commission and of Hoffman resulted in the adoption of resolutions in 1856 by the California legislature calling upon Congress to prevent the location of floating grants on occupied land and to deny United States surveyors discretion in locating grants and urging the appointment of a competent person to have charge of the government defense in land cases before the United States District Court. The joint committee making the recommendations declared that simulated and fraudulent claims "stand about the same chance of confirmation as those made in good faith as the simulated character of the papers are very difficult of proof." Hundreds of leagues of the best land on which settlers were living and had made valuable improvements were thus claimed and would doubtless be confirmed by the courts unless "efficient action on the part of Government" be taken. Improvement followed the appointment of abler men to represent the government, but the discretion allowed the surveyors and the difficulty of appealing from their surveys remained.[28]

So many were the complaints about the surveying of the claims that action was finally taken in 1860 to give adverse interests of whatever character an opportunity to challenge the surveys in the district court in San Francisco, not in Washington before the General Land Office as the previous legislation had permitted. This was accomplished by an act of June 14, which, though drafted by Judge Hoffman who was to be a major beneficiary of it through a large retroactive salary increase, violated principles of good legislative practice. The retroactive salary increase to California judges, one of which drafted the measure, so offended the sensibilities of some high-minded members of Congress and so absorbed their attention that features of the bill which were seriously to affect land titles in California were given little consideration in either house. The Hoffman Act, as it was called, was designed to prevent major distortions in boundaries, such as had occurred in Mariposa, by requiring that the final survey be compact and that it conform to the intentions of the original grant. It provided that after survey of confirmed

claims, public notice should be given of the results to permit settlers, adjacent claimants, or other interested parties to contest the survey before the United States District Court. The district judge was to inquire into the facts and to allow interested parties to give testimony, and the federal district attorney was to represent the contestants, thereby relieving settlers of costs. The court could set aside the survey after a trial and order a new one to conform to its decree. A further right of appeal from the revised survey was allowed. For the first time, settlers could feel a sense of security from questionable and seemingly unfair surveys, and knew that a government attorney was to act as counsel for them. The Act of 1860 had long been needed, although the power the measure placed in the judge's hands was a dangerous one, some thought.[29]

Two actions followed fairly promptly the adoption of the Hoffman Act. All surveys of claims in the Northern District, including those already returned to the General Land Office but for which patents had not yet been issued, were to be advertised to permit interested parties to know them. This had the effect of suspending the further issuance of patents until the surveys were reported by the Surveyor General to be free from objection.[30] The other, and expected result, was a rash of appeals to the district court from settlers and neighboring claim owners asking for reconsideration of surveys previously approved. Numerous surveys were set aside and orders were issued for new surveys to be made with greater regard to the conditions and bounds of the grants.[31] Two of Thomas O. Larkin's ranchos, for example, were ordered resurveyed. The resurvey of Larkin's Boga ranch brought no happiness to settlers, for Hoffman ruled that land which Larkin had already conceded was *not* part of his ranch and, that although it had been occupied by settlers hopeful of acquiring pre-emption rights, it *was* to be included within the patent. Captious critics might maintain that the judge went out of his way to include the settler's improvements.[32]

On the Putos claim of Vaca and Peña in Solano County which William Carey Jones had carried through to speedy confirmation and patent on the basis of the Frémont decision, though Justice Daniels dissented, violence followed violence. A major difficulty was that in an area estimated at four hundred thousand acres the claimants were

authorized to select ten square leagues. Settlers, thinking that no government would permit a claimant to control ten times the amount of land his grant allowed, had moved into the area and made their improvements, naturally selecting the more desirable land, but well before the claimants had determined their boundaries. When the Vaca and Peña boundaries were surveyed, numerous improvements were included within the 44,383 acres allowed. Although the patent had been issued, settlers managed to get the surveys brought before Hoffman for consideration, only to have him take a strictly legalistic and narrow interpretation of the Act of 1860 by maintaining that it was not intended to apply retroactively, despite the clear intent of Congress.[33]

Both claimants and settlers early came to see that the Act of 1860 was not a major boon to them. It greatly extended the time in which claims remained unsettled, lawyers' fees were running, and court costs were growing; but it should be borne in mind that the reasons for invoking the law were diverse and that claimants as well as settlers made use of it. For example: the Honcut claim of Charles Covillaud, containing 31,679 acres in Yuba County, was ordered by Hoffman to be newly surveyed because the owners had had no part in determining the bounds of the original survey. Owners of the strategically located Laguna de la Merced grant of half a league in San Mateo County had accepted a preliminary survey, encouraged settlers to take up land outside the boundaries, and then, when they had developed the land, the claimants asked for a new survey to include the improved lands of the pre-emptors. Members of the Pacheco family, who had sold a portion of their San Ramón claim, may have approved of the survey which omitted the portion sold, but Hoffman ordered a new survey to include it. Agustín Bernal, owner of the Santa Teresa claim of one league in Santa Clara County, not content with the original survey that Hoffman showed as including 4,460 acres, induced the judge to set it aside because it disregarded the terms of the decree; when resurveyed and patented, it included 9,647 acres. The Pala one-league claim in Santa Clara County had been surveyed twice, once to conform to the ideas of the claimants, once to satisfy the settlers. Hoffman found the second survey did not sufficiently coincide with the terms of the grant and ordered a third

survey. In the Oakland-Alameda region Hoffman ordered a new survey of the Peralta claim to exclude the shore land to the high water mark. This order of resurvey, it was rumored, proved enormously valuable to H.W. Carpentier who had covered it with school land warrants in anticipation of the Hoffman decision.[34] After three successive surveys of Río de los Americanos, the Leidesdorff claim of 35,521 acres in Sacramento County, there seemed no possibility of satisfying all parties. On appeal to the Supreme Court, Justice Field, on a technicality, found the Act of 1860 did not apply and returned to the first survey which stretched the claim for miles along the Sacramento River and included villages, houses, and mining claims.[35]

These and other orders for resurvey offer little evidence that the Act of 1860 was of much benefit to settlers. Hoffman, a stern and incorruptible judge, who devoted long hours and much learning to his decisions, like Justice Field of the California supreme court, leaned heavily in the direction of the owners of claims rather than the settlers. Yet, he went to great trouble to make his decisions clear and well based, even taking at least one field trip to study the lay of the land and to see how it was possible to reconcile the boundaries to the meager descriptions in the original grant.[36] Settlers could not but feel that his efforts were on the whole not productive of good for them.[37] On the other hand, not every claimant was satisfied with Hoffman's decisions.[38]

Those who had helped to secure the Hoffman Act in hope of winning lenient treatment for settlers could not foresee the appointment of Stephen J. Field to the Supreme Court of the United States. Field had a profound respect for property rights, inchoate and vague though they might be. The Hoffman Act seems to have been too "liberal" for him, for he successfully circumscribed it in a series of decisions he wrote that made it less helpful to settlers than its framers intended it to be.[39] In the Sépulveda case, involving the survey of the Palos Verdes ranch of 31,629 acres, he restricted the application of the Hoffman Act by holding that with some exceptions it did not apply to surveys made prior to the adoption of the Act and that its provisions and authority should not be read into earlier legislation. In the Malarín case involving the survey of Bolsa de San Felipe rancho of 6,794 acres in San Benito County, Field discarded

evidence of fraud to enlarge the claim from one to two leagues and reversed Hoffman's order for a new survey. Field got into difficulty, however, in an Estudillo case where he appears to have been bothered by the right of interested parties to intervene in opposition to a survey. He dismissed an appeal from the Hoffman decision, but had two judges dissent and a third refuse to follow his line of reasoning, and two judges did not participate.[40]

Justice Samuel F. Miller's attitude toward and interpretation of the Act of 1860, as expressed in a Vallejo case, is somewhat shocking for its near repudiation of the intent of the measure. In a decision involving a survey of a ranch which divided two portions of public lands in a valley, he declared: "In this class of cases, a large discretion must necessarily be left to the surveyor, and while we are not prepared to say that we will not in any case review the exercise of that discretion, we have no hesitation in saying that we do not sit here to determine whether it has been accompanied with the nicest discrimination, the highest of wisdom."[41]

After a number of orders for resurvey of ranches had been issued by the district court, the statute of 1860 was sharply criticized by William Carey Jones who called it a "bill of abominations." It conferred extraordinary powers on the judge, gave the clerk of the court extraordinary fees, and $12,000 back pay to Hoffman, all of which he thought was bad enough; but more, it created an additional hurdle which had to be overcome by the holders of Mexican claims, and it was responsible for long delays in the patenting process. Although other factors played their part in the delays, the Act of 1860 may have been the most important.[42] The table of chronology of patents is interesting in this connection.

TABLE SHOWING DATES OF THE ISSUE OF PATENTS TO LAND CLAIMS IN CALIFORNIA

1856	1	1861	14
1857	13	1862	20
1858	26	1863	13
1859	27	1864	6
1860	30	1865	36[43]

Yet, the blame cannot be placed on the statute but on the greed of the claimants who sought to gain possession of the best lands in the vicinity of their grants regardless of the terms of their grants and the intended boundaries insofar as they were given.

The Hoffman Act, with its judicial trial of the boundaries of private land claims and the responsibility it placed on the district attorney for pressing the attack in the district court if protests were made by settlers, was unpopular with large landowners who found the Surveyor General and the Commissioner of the General Land Office more amenable to their interests than the judiciary. True, some of Hoffman's decisions had favored them; when they did not, relief was available in the Supreme Court where Justices Field, Nelson, and Grier rejected some orders for new surveys. Most important of these rejections was the Sutter case in which the Supreme Court ordered the earlier survey to be reinstated, a survey which gave more of the valuable land on the Sacramento to the larger owners. In one case Justice Grier intimated that "frivolous objections" were being made by settlers to surveys and that in doing so they were abusing the Act of 1860, a statement which might be taken as showing on Grier's part a lack of understanding of the issues involved.[44]

Though we may conclude that the claimants were not seriously hurt by the Hoffman Act, they still preferred to appeal to administrative rather than to judicial tribunals. Consequently, the Hoffman Act was specifically repealed in a measure of July 1, 1864, which placed full responsibility for surveying the confirmed claim in the hands of the Surveyor General, subject to an appeal to the Commissioner of the General Land Office, or essentially a return to the *status quo* before 1860.[45] No judicial trial was allowed, save that appeals already under way were to proceed as before. Although less satisfactory to settlers, the new act did have the desirable effect of speeding up the patenting of claims as shown by the following. In 1864 only six claims were patented, while in the next three years 38, 67, and 23 patents were issued. By 1870 322 claims had been confirmed, their surveys approved, and patents issued; but it should be noted that this represented only slightly more than half of the claims that were ultimately to be patented.[46]

The bloody disputes between settlers and claimants or their assign-

ees and the destruction of property led to another effort to provide that where boundaries of Mexican claims were changed to include pre-emption rights, the successful claimants should reimburse the settlers for the value of their improvements. In 1857 an occupancy act had been passed entitling the dispossessed settlers to recover the value of their improvements from the successful owners who ejected them, but the state supreme court had declared it unconstitutional and the legislature was loath to try again. In 1862, when disputes over settlers' and claimants' rights to land were most threatening, Governor Leland Stanford urged upon the legislature action that would render justice to such settlers who unknowingly had settled upon private land claims. He pointed out the injustice that a person having a one-league claim within boundaries of one hundred leagues had the right to recover possession of the entire one hundred leagues until the claim was segregated. Regarding a bill that would limit the time in which civil actions could be brought for the recovery of land to sixty days, he declared that it would do incalculable damage to both claimants and parties with adverse interests if they were compelled to bring suits within such a short time. He was also aware that the California supreme court might strike it down as it had the occupancy act. The assembly responded to the governor's urging by passing a measure that would prohibit actions to recover possession of land within the claims until confirmation of the boundaries had been finally determined but it was defeated in the senate.[47] Thereafter, settlers turned to the federal courts and to Congress for aid, though not with marked success.

Throughout the fifties and sixties and even into the seventies squatterism was endemic in California. Whereafter there was promising but seemingly unoccupied land to be found and this was commonly on the sparsely developed ranchos, squatters descended upon it, made their crude improvements, and announced they intended to fight the claimant's title and to resist all efforts to eject them. Appealing to natural law and the obvious evidence of fraud and perjury and incompleteness of title on many of the claims, they persisted in believing that justice would finally be done them by the courts or by Congress. Long after the titles had been confirmed, the surveys finally accepted, and the patents issued, squatters continued

their battle for justice. Even the law, the courts, and the sheriffs could not persuade them to abandon their hopes to defend which they contributed funds out of their meager resources to the heavy costs of litigation.[48]

Not all claimants insisted on holding their grants intact or refused to come to satisfactory terms with settlers. Andrés Pico offered to sell to settlers his doubtful Moquelemos land for $1.25 an acre in 1853.[49] The conveyance records of San Joaquin County show that he sold 14,740 acres in 1856 and 1857 to thirty-four individuals in amounts ranging from 160 to 1,800 acres at from two to three dollars an acre, but whether they were for land in Moquelemos or his more certain Arroyo Seco claim is not clear. Some of the deeds provided for partial payment with the balance to be paid on confirmation of the claim. The city of San Jose is said to have sold its pueblo lands for $1.25 an acre and the Chabolla heirs are pictured by the local historian as having shown generosity in dealing with the settlers of their land. Settlers on a part of Larkin's Children's rancho and his Jimeno claim were able to buy at $1.25 an acre. On the San Leandro claim, below present Oakland, land was being rented to settlers at $5 and $10 an acre in 1855-1857, though only after numerous disputes between owner and squatters. In Shasta County, P. B. Reading was selling part of his San Buenventura rancho at $5 and $10 an acre. An informative dispatch in the pro-settler Sacramento *Bee*, copied from the San Francisco *Mirror*, stated that thirty families living on Pulgas were persuaded to vacate their squatters' habitations after some resistance but were given "an equitable allowance" for their improvements. Had similar agreements been offered squatters elsewhere, doubtless much bitterness and tension might have been avoided.[50]

It was the struggles of the squatters in California for their rights against the Mexican claimants or their assignees, who were attempting to float their claims over the squatters' improvements, the efforts of settlers to find the elusive free government land, the apparent ease with which large land owners could twist and subvert for their own benefit land laws designed for the landless, the exactions of the land grant railroads, the failure to break up the great estates left by the Mexican government, the emergence of new and even larger estates, and finally the rapid rise in real estate values which followed the

great inrush of population into California that induced Henry George to find a new solution for what he regarded as a developing land monopoly. George's *Our Land and Land Policy* reveals a clear understanding of the unique character of the story of the disposal of the public lands in California. It was this knowledge that led him to develop his single tax advocated in his *Progress and Poverty*.

NOTES

1. *California Farmer*, XIX (April 10, 1863), 52.

2. David M. Ellis, *Landlords and Farmers of the Hudson-Mohawk Region* (Ithaca, 1946); Henry Christman, *Tin Horns and Calico* (New York, 1945); Paul W. Gates, *Fifty Million Acres* (Ithaca, 1954); C. H. Gatch, "The Des Moines River Land Grant," *Annals of Iowa*, third series, I (April, July, October, 1894, January, 1895), 345-370, 468-492, 536-552, and 629-641; James B. Weaver, "The Story of the Des Moines River Lands," *Annals of Iowa*, third series, XVIII (October, 1932), 420 ff. In the case of the Des Moines River lands where government negligence and inconsistency produced conflicting claimants to land, the federal government finally appropriated $350,000 to compensate the losers for the capital and labor they had expended on claims lost to them.

3. I am leaving out of consideration the huge 1,775,000 claim of Iturbide, the 1,240,000 claim Sutter bought from the Russians, Limantour's claim of 354,000 acres, the 133,000 to 221,000 acre-claim of the Juan and José Luco, and the absurd attempt to enlarge the dubious Prietos y Najalayegua claim to 208,000 acres.

4. Stockton *Weekly Democrat*, April 25 and May 30, 1858.

5. J. Ross Brown, *The Mariposa Estate: Its Past, Present and Future* (New York, 1868), p. 6, and accompanying map; Raymund F. Wood, *California's Agua Fria: The Early History of Mariposa County* (Fresno, California, 1954), p. 22; Stockton *Weekly Democrat*, April 25, 1858.

6. Sacramento *Daily Union*, August 3, 1858, quoting the Mariposa *Democrat;* Merced Mining Company *v.* Frémont, 1857, 7 *California Reports*, 317; Fremont *v.* Mariposa County, 1858, 11 *California Reports*, 361; Mariposa *Mail* January 26, 1867. In 1857 when Mariposa's assessment was $753,000 and taxes and accrued interest amounted to $70,000 the tract was to be sold for tax delinquency. *Alta California*, December 14, 1857. Large landowners, whether corporate or individual, generally sought to beat down the local authorities by withholding payments, even letting their taxes become delinquent, knowing that rural counties in their desperate need for income would likely be willing to compromise and accept a fraction of the original tax. Meantime, the small

holders, not daring to run such risks and not having the bargaining power the large holders had, more commonly met their taxes on time.

7. *Alta California*, January 24, 1861; 63 *U.S. Reports*, 94; 67 *U.S. Reports*, 394. Hoffman was not unduly bothered by evidence of forgery in the Yokaya claim of 35,541 acres in Mendocino County. *Alta California*, November 21, 1862.

7a. Statement of John Keyes, of Tomales, dated Feb. 5, 1861, in *California Farmer*, XIX (May 8, 1863), 82.

8. Sacramento *Daily Union*, July 1 and 2, 1858; California State Agricultural Socialy, *Transactions*, 1860, p. 79. The Cosumnes grant to William E. P. Hartnell was reduced from eleven to six leagues on the ground that Hartnell had received in other grants five leagues, thus making the maximum Mexican law allowed. 63 *U. S. Reports*, 286. A satisfactory survey was not made until 1869 when a patent was issued.

9. Ogden Hoffman, *Reports of Land Cases Determined in the United States District Court for the Northern District of California*, 1853-1858 (San Francisco, 1862), p. 188; 24 *California Reports*, 268; 63 *U. S. Reports*, 406, and 69 *U. S. Reports*, 281. Pico had three other claims rejected but he had a share in five confirmed claims containing 354,659 acres.

10. *Senate Documents*, 48 Cong., 2 Sess., 1885, no. 981, *passim*, includes a map showing the location of Moquelemos between the Moquelumne and Calaveras rivers; George H. Tinkham, *History of San Joaquin County, California* (Los Angeles, 1923), pp. 61-62. Another Pico (Francisco) had a claim to eleven leagues in Tuolumne County which was confirmed by Hoffman but rejected by the Supreme Court, perhaps fortunately, for if confirmed it would doubtless have produced much of the same controversies that raged on Mariposa and Moquelemos. As late as 1885 title questions for a portion of Moquelemos were still in doubt.

11. Sacramento *Daily Union*, August 18, 1858; Sacramento *Bee*, November 11, 1858; Hoffman, *Report of Land Cases*, p. 131.

12. Sacramento *Daily Union*, March 25, April 27, 29, and 30, 1861; Sacramento *Bee*, April 12, 13, 18, and 23, May 4, 6, 7, 20, and 23, 1861; *Alameda County Herald* (Oakland), April 24, 1861.

13. Sacramento *Bee*, April 23, 1861.

14. Sacramento *Daily Union*, April 29, 1861.

15. "Governor's Message Relative to Existing Difficulties in Santa Clara County," May 6, 1861, *Appendix to Journals of the Assembly of the Legislature of California*, 12 Session (Sacramento, 1861), no. 25, pp. 10-11; *Alameda County Herald*, May 15, 1861. An earlier squatters' meeting in 1859, after censuring the courts for their unfairness to settlers, drew up a platform that called for united efforts to upset all fraudulent grants, the removal of all officers who have contributed to the confirmation of such grants, the enactment of

legislation requiring a review of questionable grants, the assurance to every settler of the right to contest land claims, and the right to recover the value of improvements in the event of ejectment from claims. *Weekly Alta California*, May 7, 1859.

16. Sacramento *Bee*, May 2, 8, 11, 14, and 15, 1861.

17. *California Assembly Documents*, 12 Session, 862.

18. 12 *U. S. Stat.*, 902; U. S. *v.* Chaboya, 67 *U. S. Reports*, 593.

19. Hoffman, *Report of Land Cases*, p. 95 of Appendix; 24 *California Reports*, 585; Report of the Surveyor General of the State of California, 1882-1884, *Appendix to the Journals of the Senate and Assembly*, California Legislature, 27 Session, 1887, p. 25; H. S. Foote, ed., *Pen Pictures of the Garden of the World or Santa Clara County, California* (Chicago, 1888), p. 78.

20. Sacramento *Daily Union*, July 17, 22, August 5, 1861, January 9, 1864; Sacramento *Bee*, April 24, 1861, June 3, 1862; "Memorial Concerning the Settlers on the Public Lands in California and Particularly on the Suscol Rancho," signed by John R. Price and dated December 1, 1862; A. Russell Buchanan, *David S. Terry Dueling Judge* (San Marino, 1956), pp. 128 ff; Tinkham, *History of San Joaquin County*, p. 113.

21. *California Culturist*, I (Feb., 1859), 395.

22. Curtis *v.* Sutter, 15 *California Reports*, 260; Sacramento *Daily Union*, June 6, 1859; Petaluma *Journal*, Petaluma *Argus*, and San Francisco *Call* in Sacramento *Daily Union*, June 14 and December 26 and 31, 1859.

23. Tom Gregory, *History of Sonoma County, California* (Los Angeles, 1911), p. 157; Honoria Tuomi, *History of Sonoma County, California* (2 vols.; Chicago, 1926), I, 427 and 435.

24. Unsigned letter to Jacob Thompson, Secretary of the Interior, March 11, 1858, in Stockton *Weekly Democrat*, March 21, 1858.

25. George Fox Kelly, representative of the settlers on Sotoyome and Santa Rosa, told his story in *Eight Months in Washington; or, Scenes Behind the Curtain, Corruption in High Places and Villainy Unparalleled on Earth. A Despotism in Active Operation. Darkness or Blackness Before Us. Reformation Our Only Safety* (1863), and *Land Frauds of California. Startling Exposures. Government Officials Implicated. Appeals for Justice. The Present Crisis* (Santa Rosa, 1864). The first of these accounts is "Dedicated, Most Respectfully to the Lovers of Truth and Justice and the Pre-emption Settlers of California." Accounts of the violence on Sotoyome appear in Marysville *Appeal*, December 2, 1860; *Alta California*, June 17, 1862; Napa *Reporter*, July 19, 1862; Sacramento *Bee*, September 26 and 27, 1862; Sacramento *Daily Union*, June 23, 1864.

26. William A. J. Sparks, Commissioner of the General Land Office in 1885 considered the complaints of the purchasers of a claim adjacent to Pulgas that the boundaries of the latter as surveyed and patented in 1857 had done them

rank injustice and seemed to agree the Pulgas was one of the "flagrant cases of improperly acquired patents." Commissioner of the General Land Office, *Annual Report*, 1886, p. 210. Five of the 813 claims presented to the Land Commission were for parts or all of Pulgas in San Mateo County, including one presented by William Carey Jones, presumably for his fee in representing the Argüello family. The Supreme Court in 1857 dismissed the claim or claims for twelve square leagues and awarded specifically four. Yet, when patented on October 2, 1857, eight leagues were included. 59 *U. S. Reports*, 549. As late as 1878 James W. Denver, was trying to have the patent of Pulgas set aside. *Brief of J. W. Denver, Attorney for the Petitioners, Before the Committee on Private Land Claims, H. R., Forty-fifth Congress. In the Matter of Controversy Between the Owners of Pulgas Rancho, San Mateo County; California* (n. d., n. p.) with map; also *Reply to Mr. Janin's Second Brief in the Pulgas Rancho Case on the Bill Now Before the Committee on Private Land Claims in the House of Representatives* (n. d., n. p.); J. W. Denver, *Brief History of the Pulgas Case and Decisions of the Courts Bearing on it* (1878); Frank M. Stanger, *History of San Mateo County* (San Mateo, 1938), p. 44.

27. It was on these and other early confirmed ranchos that some of the worst of the squatter difficulties developed, particularly Mariposa (number 2), Suisun (1), Larkin's Children (7), and La Jota. *Alta California*, June 10 and 16, 1854; Stockton Weekly *Democrat*, June 13, 1858; Sacramento *Daily Union*, May 28, October 9, 1861.

28. Unnumbered *California Assembly Document*: "Report of select committee in relation to U.S. Land Commissioners," 1856.

29. *Cong. Globe*, 36 Cong., 1 Sess., June 1, 2, 9, 13, 1860, pp. 2520, 2554, 2778, 2952; 12 *U.S. Stat.*, 33. Judah P. Benjamin said that the measure had been submitted to several justices of the Supreme Court who gave it their approval. *Cong. Globe*, 36 Cong., 1 Sess., May 8, 1860, p. 1961.

30. Washington correspondent in *Alta California*, December 3, 1860.

31. Twelve appeals for reconsideration of surveys had been filed by August 24, 1860, *Alta California*, August 24, 1860. From that time until 1864 the Supreme Court was largely involved in cases relating to surveys.

32. Larkin could well congratulate himself on the speed with which he had pushed to early confirmation and patent his Children's Ranch. It was on this ranch that he had suffered his worst difficulties with settlers in 1853 and 1854. A United States marshall had been knocked down, "brutally beaten," and ordered to leave by a posse of "order loving sovereigns." Sheriff's deputies had been driven off and representatives of Larkin mobbed. Early confirmation and the certainty of patenting enabled Larkin to sell to settlers much of the ranch and provided funds for taxes on, and defense of, his other ranches. C. B. Sterling, February 10, 1852, to Larkin, Larkin MSS, Bancroft Library; *Alta California*, December 23, 1853, March 17, 1861; Sacramento *Daily Union*,

May 28, 1861. In addition to his Children's and Jimeno ranches, Larkin owned or had an interest in Boga, Huichica, Lobos, Cotate, and the Mission San Jose, including altogether more than 170,000 acres. "Memo of Real Estate," June, 1847, Folsom MSS, Bancroft Library. His estate was said to be worth from $300,000 to $500,000 in 1858. Stockton *Weekly Democrat,* November 14, 1858.

33. Sacramento *Bee,* August 25, September 14 and 17, 1857; Stockton *Weekly Democrat,* September 5, 1858; *Alta California,* February 12, August 15, 1861; 59 *U.S. Reports,* 556. Hoffman reversed an earlier order for a resurvey of the 11,888 acre ranch of George C. Yount in Napa County when a second document was discovered that seemed to justify the bounds established by the first survey and approved 3,030 acres more than the two leagues specified. The Leisdesdorff or Folsom claim for Río de los Americanos had its second survey rejected on the ground that it was not a parallelogram and did not conform to the terms of the grant, thus eliminating the town of Folsom and a stone quarry. On reconsideration Hoffman decided to let the survey stand since to set it aside would create so much confusion and possible litigation from the fact that the grantees had sold much land within the boundaries as established by the first survey and the government had disposed of substantial amounts outside the survey. *Alta California,* June 20, 1862.

34. *Alta California,* February 16, March 1, 17, 23, June 14, October 2, 1862.

35. *Alta California,* June 26, 1862; 68 *U.S. Reports,* 452; Sacramento *Daily Union,* January 14, 1856.

36. Hoffman visited the Ione and Jackson Valleys in Amador and Sacramento counties to determine in the field where the boundaries of the Pico claim, Arroyo Seco, should be run. *Alta California,* November 7, 1862.

37. A resurvey of the Bútano claim in San Mateo County increased the acreage from 3,025 to 4,430. Hoffman, *Report of Land Cases,* Appendix, p. 86; *Alta California,* July 13, 1862, September 8, 1862, and January 7, 1863. In many cases the acreage patented ran well above the amount included in the number of leagues granted, which was caused partly by the fact that the rough boundaries mentioned in the grant rarely coincided with the number of leagues and the courts gave greater weight to the boundaries than to the leagues. For Hoffman's justification for enlarging the acreage of the San Leandro grant see *Alta California,* September 8, 1862. The following year Hoffman changed his view about the "more or less" clause commonly found in the grants, holding that recent action of the Supreme Court had made this phrase meaningless. Henceforth the number of leagues in the grant was to be the controlling factor. For Hoffman's decision in the Joaquín Moraga (Laguna de los Palos Colorados) claim of 13,316 in Contra Costa County see *Alta California,* January 7, 1863. Some other enlargements of grants were:

Grant	No. leagues or acres intended	No. acres patented
Pulgas	4 leagues	35,240
Corte de Madera del Presidio	1 league	7,845
Loma de Santiago	4 leagues	47,226
Muscupiabe	1 league	30,144
Buena Vista (San Diego Co.)	1,109 acres	2,288
Caymus	2 leagues	11,866
Animas	4 leagues	26,518
Santa Teresa	1 league	9,647
Arroyo de las Nueces y Bolbones	2 leagues	17,782
San Jacinto Nuevo y Portrero	5 leagues	48,861
San Leandro	1 league	6,829
Laguna (Santa Barbara)	3 leagues	48,703
Guadalupe	32,408 acres	43,681

38. Tiburcio Vásquez, for example, who had 4,436 acres confirmed to him in his Corral de Tierra claim in San Mateo County, maintained that much more land should be included. *Alta California*, July 4, 1861.

39. Field used the term "liberal" in U.S. *v.* Estudillo, 68 *U.S. Reports*, 716.

40. *Ibid.*, 106, 282, 717.

41. 68 *U.S. Reports*, 660.

42. *Alta California*, April 9, 15 and 19, 1861.

43. Compiled from "Corrected Report of Spanish and Mexican Grants in California, Complete to February 25, 1886," Supplement to *Official Report*, State Surveyor General, 1883-1884.

44. 69 *U.S. Reports*, 449, 587, 589.

45. 13 *U.S. Stat.*, 332. An act of July 23, 1866, further extended the time when appeals set in motion under the Act of 1860 could be carried to the courts. 14 *U.S. Stat.*, 221.

46. "Corrected Report of Spanish and Mexican Grants" and W. W. Robinson, *Land in California* (Berkeley, 1948), p. 105 ff. As late as 1887 it was reported that 49 private land claims containing 100,000 acres were still outstanding and unpatented. Commissioner of the General Land Office, *Annual Report*, 1887, p. 538.

47. Marysville *Appeal*, March 25, 1863; *Assembly Journal*, 13 Session, 1862, pp. 98, 287-289, 587; *Senate Journal*, 13th Session, 1862, pp. 722-724.

48. W. W. Robinson has shown (*Land in California*, p. 99) how the practice of squatting on privately owned but lightly developed land carried over into the twentieth century.

49. *Democratic State Journal*, August 23, 1853, quoting the Stockton *Journal;* Deed Records, San Joaquin County, 1856-57.

50. Leases of various dates in William Heath Davis MSS, California Historical Society; Elliott & Moore, *Colusa County, California* (San Francisco, 1880), p.48; *Abstract of Title to the Rancho Buena Ventura Reading Grant Situated in Shasta Co., Showing the Original Title of Pearson B. Reading and the Title Acquired to Portion Thereof by James B. Haggin*, 1887; *Marysville Appeal*, May 22, 1863; San Francisco *Mirror* in Sacramento *Bee*, July 13, 1861.