

Northern California: Persistence and Property Rights in a Changing Economy, 1840-1880

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Few historians dispute the assertion that members of California's Mexican elite lost their land in the decades following the Mexican-American War because of corrupt U.S. legal and political systems. Scholars argue that these systems were designed to rob the Mexican elite of their land and end their isolated, ideal, and halcyon existence. D. Michael Bottoms concludes that "Californio landowners had been bankrupted and displaced when they were forced, in a hopelessly corrupt process, to defend their titles in American courts."¹ Susan Lee Johnson has similarly described the Congressional Land Act of 1851, which outlined the process for the confirmation of Spanish and Mexican land grants in California, as "best known for the role it played in the dispossession of the Spanish Mexican elite in California."² Joshua Paddison places the blame squarely on the lawyers when he states that, "many once-proud Californio families [went] bankrupt from attorney's fees" as a result of the Land Act of 1851.³

While these conclusions draw from a historical narrative dating back to the late nineteenth century, a comprehensive analysis of court records and economic data concerning California land grants between 1840 and 1880 reveals a very different story in Northern California.⁴ This analysis complicates the accepted and over-simplified conclusions that often go unquestioned by many modern historians. In contrast to the standard narrative, not all California land grant owners were Hispanics destined to be the inevitable economic and judicial victims of California's admission to the Union. In addition, not all land speculators were White Americans destined to become the economic and judicial winners under U.S. control. In Northern California, the fundamental transformation to a society and economy based on

¹ D. Michael Bottoms. *An Aristocracy of Color: Race and Reconstruction in California and the West, 1850-1890* (Norman: University of Oklahoma Press, 2013), p. 82

² Susan Lee Johnson. *Roaring Camp: The Social World of the California Gold Rush* (New York: W.W. Norton & Company, 2000), p. 265

³ Joshua Paddison. "Capturing California." *California History* (No. 3, 2003), p. 129

⁴ In this essay, Northern California is defined by the counties falling under the jurisdiction of the U.S. Northern District Court of Ogden Hoffman.

growing crops on smaller land holdings and the lucrative business of land speculation was already well under way in the decade prior to the Gold Rush and continued in the decades after U.S. statehood. To be sure, external factors were indeed important in this transformation.

However, internal pressure within Hispanic society to fundamentally change the Northern Californian economy and culture also played a significant role in the transformation of the region between 1840 and 1880. Through a detailed analysis of the events that took place in Northern California between 1840 and 1880, this essay offers three arguments. First, economic success for both Hispanic and non-Hispanic farmers in Northern California depended on an ability and willingness to adapt agricultural practices in a changing regional economy. The retention of large land holdings in Northern California was not directly connected to economic success. Therefore, historians are wrong to use the size of land holdings as the sole measure of wealth. Second, the judicial authorities in California favored all land grant holders of both Hispanic and non-Hispanic origins against abuses by the state legislature and opportunistic individuals. Therefore, historians are wrong when they treat the judicial debates as a corrupt process. Third, the assumption that all Northern California land grants were primarily used as long held ranchos by Hispanic families is questionable. Instead, many land holdings in Northern California were acquired in the last years prior to the Mexican-American War and were highly valued as real estate investments to be sold and not as family ranchos to be retained.

This essay challenges the common interpretation that emphasizes the racial conflict between White Americans and Hispanic land owners. This line of interpretation dates back to studies by Hubert Howe Bancroft and Josiah Royce. Their studies portrayed a fight between the morality of the family, church, and school against the immorality of greedy settlers. Bancroft and Royce portrayed Mexican grantees as victims of the white settlers' "particularly pernicious form of lawlessness."⁵ Leonard Pitt reinforced these themes in *The Decline of the Californios: A Social History of the Spanish-Speaking Californians 1846-1890* (1966). Bancroft and Royce "guided the direction" of Pitt's study, but his portrayal of Yankees as land-hungry militants was even more monolithic.⁶ Pitt identified the Land Law of 1851 as the primary tool Anglo-Saxons used to take ranchos from the Hispanic Californians. In Pitt's account, "the Californios pleaded their cases before the Land Commission, [while] the Americans watched and waited."⁷

⁵ Donald J. Pisani. *Water, Land, and Law in the West* (Lawrence: University Press of Kansas), p. 62

⁶ Leonard Pitt, *The Decline of the Californios: A Social History of the Spanish-Speaking Californians, 1846-1890* (Los Angeles: University of California Press, 1966) p. xv

⁷ Pitt, *The Decline of the Californios*, p. 83

This portrayal has influenced the scholarship ever since.⁸ Relying on Pitt's study, Kim David Chanbonpin argued that the Federal judicial system in California deliberately dispossessed Mexican landowners after 1848. Chanbonpin contended that the system for validating California land grants was a prime example of "race based discrimination in the land grant adjudication process... [and that] instances of preferential treatment for Anglo claimants abound." Using the land case of John C. Fremont as an example, Chanbonpin asserted that while "the burden of proof for documentation for Mexican claimants was stringent, Anglo claimants somehow evaded these burdens."⁹

Historians have increasingly challenged this narrative. Paul Wallace Gates has refuted the contention that the 1851 Land Act was designed to rob Californios of their land.¹⁰ Gates characterized Leonard Pitt's work as showing "considerable confusion" in regards to the land grant litigation process. He supported this criticism with two points. First, he described in detail the complexity and uncertainty brought about by fraudulent grants, floating grants, and improper administration of grants during the Mexican period.¹¹ He argued that these complexities made a more in depth process to confirm grants absolutely necessary and any simple process that assumed legitimacy of grants impossible. Second, he pointed out that during the Mexican period, 133 grants were initially given to non-Mexicans. Moreover, an additional 213 grants had been sold to non-Mexicans by the time the Land Commission began assessing claims.¹² This meant that 42% of the claims adjudicated by the U.S. Land Commission and federal courts were for property owned by non-Mexicans. Because of this simple fact, Gates

⁸ The influence of Leonard Pitt's *Decline of the Californios* is unmistakable by its prominence in the footnotes of twenty-first century scholarship. His direct influence can be found in books such as Johnson, *Roaring Camp; Bottoms, An Aristocracy of Color*; and Paddison, "Capturing California." These and other works draw on ideas directly from Pitt's work and accept the conclusion that the Mexican elite of California lost their land in the decade following the Mexican-American War because of corrupt U.S. legal and political systems designed to rob them of their land. Despite Pitt's general narrative and arguments, his work sometimes softened his hard edged argument by providing examples of other reasons Hispanics lost much of their land after 1851 to include a more competitive economy, gambling debts, agreeing to high short term loans, and insisting on supporting an aristocratic lifestyle beyond the means of most Californio families. These observations by Pitt are often ignored in 21st Century scholarship using Pitt as a reference.

⁹ Kim David Chanbonpin, "How the Border Crossed Us: Filling the Gap between *Plume v. Seward* and the Dispossession of Mexican Landowners in California after 1848." *Cleveland State Law Review*, Vol. 52, No. 1 (2005), pp. 314- 315

¹⁰ Gates wrote fifteen articles and one book that analyzed the study of California land grants. Despite his expertise and detailed analysis of many topics related to California land grants, he is rarely referenced in recent historical work.

¹¹ A floating grant, according to the *Judicial and Statutory Definitions of Words and Phrases*, is a "term applied to a grant of land by the [Mexican] government, the land not having been specifically selected; that is, a general grant of a certain amount of land, which is to be selected in the future by the grantee" (p. 2850). A number of claims brought before the Land Commission were found to be fraudulent. Examples of fraud include the submission of antedated documents, counterfeit documents, and the testimony of individuals inaccurately stating that certain grants were larger than what was documented or occupied within the standards set in the original grant. Improper administration of a grant includes the sale of land not within the original grant, the inability to produce mandatory supporting documentation, and the "unreasonable delay [of the grantee] to fulfill the conditions of the grant, and as such as to raise the presumption that he had abandoned his claim" (Hoffman, p. 139).

¹² Paul W. Gates, "The California Land Act of 1851." *California Historical Quarterly*, Vol. 50, No. 4 (Dec 1971), p. 426

claimed that any injustice or persecution “bore on Americans and other non-Mexican grantees or assignees with equal severity.”¹³

More recently, Tamara Venit Shelton rejected the portrayals of squatters as a land hungry mob motivated by greed and racism. Shelton convincingly argues that squatters were motivated by a land reform ideology designed to protect the natural rights of “small proprietors and producers in an era characterized by increasing consolidation and large-scale industrialization.” Her analysis also diverged from the dispossession narrative by showing that U.S. courts and land laws “favored monopolists, speculators, and landlords [many of whom were Californios] while trampling all over agrarian republican ideals [of squatters].”¹⁴ Shelton’s study demonstrates the tension between the California state legislature advocating for anti-monopolistic land reform and courts on the state and federal levels advocating for land consolidation through private ownership of land.

Gates and Shelton focus on political and legal outcomes at the state and national levels.¹⁵ Their studies do not invalidate Leonard Pitt’s argument that ideas of racial supremacy and Manifest Destiny influenced events outside the court system which contributed to the decline of Hispanic land owners. According to Pitt, these factors included corrupt legal

¹³ Gates, “The California Land Act of 1851,” p. 410. The argument Gates put forth specifically focused on the general fairness of the courts which expertly countered this part of Pitt’s argument. However, it did not invalidate Leonard Pitt’s argument that ideas of racial supremacy and Manifest Destiny influenced events outside the court system which contributed to the decline of Hispanic land owners. According to Pitt, these factors included legal expenses, new property taxes, racist state legislators, and destructive squatters. To properly assess the validity of this part of Pitt’s argument, the economic success or failure of Mexican and American land owners who were not associated with family tragedies, corrupt land claims, gambling, alcoholism, mental illness, or poor business practices in California need to be compared.

¹⁴ Tamara Shelton. *A Squatter’s Republic: Land and the Politics of Monopoly in California, 1850-1890* (Berkeley: University of California Press, 2013), pp. 179-180

¹⁵ Several other publications attempt to complicate the narratives of land grants in both Northern and Southern California, but they do not challenge the narrative directly. One example in Northern California is David Vaught’s 2004 article titled, “A Tale of Three Land Grants on the Northern California Borderlands.” In this essay, Vaught provides a detailed analysis of three land grants in Northern California that when “examined together ... complicate the debate.”^[15] Vaught describes how all three grants were located in the lower Sacramento Valley and were legally and geographically interconnected. Through his analysis of these three cases, Vaught brings out several key aspects of California land grants. First, he reaffirms the complexity of determining proper land grants from abandoned or fraudulent grants in California. Second, he reinforces Gates’ observation that Spanish and Mexican land grants were owned by both Anglo and Mexican grantees that faced similar issues and had similar enemies. Third, he reveals that several Hispanic land grant holders were speculators who made a great deal of money by legitimately and fraudulently selling claims to both Mexican and Anglo speculators. Overall, he brings an element of complexity and perspective to the historiography related to land grants in California, but does not significantly challenge the narrative. Another article written by Karen Clay complicates the narrative in Southern California. In “Ranchos and the Politics of Land Claims,” Clay reviews the results of partition suits for five land grants in Los Angeles County. She explained that partition suits were often brought into state district courts to allow division of land among multiple owners usually after a patent was issued. She concluded that “the extent to which the families of the original grantees retained ownership of the land is striking... [because] grantees and their heirs may still have controlled a significant portion of the land then in private ownership in Los Angeles County and perhaps in California as a whole.” While Clay questions the narrative based on results from her specific example, she does not go any further. A more comprehensive approach is needed if the current land grant narrative is to be refuted.

maneuvering during the multi-year process to confirm land grants, associated legal expenses, new property taxes, racist state legislators, and destructive squatters. In order to assess this contention's validity, this essays compares the economic success of Mexican and American land owners who were not associated with family tragedies, corrupt land claims, gambling, alcoholism, mental illness, or poor business practices.

Methodology

In the following essay I examine the land grants in Northern California. I compare judicial outcomes between native Californians, U.S. migrants, and Mexican migrants during the period of study. Many of the accepted historical generalizations are based on individual recollections collected by Bancroft and selective use of court cases. These studies paint a picture that historical documents, land claims cases, census data, and agricultural schedules do not confirm. In order to provide an in depth assessment of the standard narrative, I will limit my focus to Northern California and more specifically to the counties of Napa and Solano. Analysis of Northern California is especially important because changes came about quickly and the causes of success and failure are clearly identifiable because of the political and economic stress associated with the areas rapid population growth.¹⁶ Napa and Solano Counties are especially helpful case studies because taken together; they contained an ethnically and economically diverse population throughout the period of study. This diversity allows for direct comparison of economic and judicial outcomes of Hispanic and non-Hispanic land owners facing similar challenges during a 40-year period.

I will rely primarily on economic and judicial comparisons between native Californians, U.S. migrants, and Mexican migrants from New Mexico.¹⁷ An analysis of the findings by the 1851 Land Commission, Northern District Court, and U.S. Supreme Court will be used to compare judicial outcomes between native Californians, U.S. migrants, and Mexican migrants during the period of study. Because these documents also provide detailed information regarding the history, ownership, and sale of specific land grants, they are also important in proving that economic change began in Northern California during the decade prior to the Gold Rush. An analysis of the population and agricultural schedules of the U.S. Census, and summaries of deed transfers will compare economic outcomes between native Californians, U.S. migrants, and Mexican migrants. Personal memoirs, newspapers, and secondary sources will add additional detail. Native Californians of particular interest to this study are Salvador Vallejo, Nicolas Higuera, and Cayetano Juarez. Mexican migrants of particular interest to the study include the Vaca family, the Pena family, and the Armijo family. Anglo migrants of particular interest to this study include the Wolfskill family.

¹⁶ Changes in Southern California were generally more gradual and therefore, cause and effect may be harder to identify. There is much more of an argument for the ending of a traditional ranching culture due to outside forces in Southern California which does not apply to the narrative of Northern California.

¹⁷ These groupings are determined by place of birth listed in U.S. Census records. In cases of mixed marriages, the sir name was used to group the individual.

Land Grants during the Golden Age

After Mexico gained independence, the Mexican government tried to attract new settlers to California, but its land grants were often general and based on verbal descriptions. Many grants were “floating grants,” which specified a general area but not specific locations.¹⁸ When the 1851 Land Commission had to decide between different claims on property, the Mexican government’s unclear policy complicated its ability to do so.¹⁹

Although Articles VIII and IX of the Treaty of Guadalupe Hidalgo included a guarantee of “full and complete protection for all property rights of Mexicans,” the vague and imprecise methods of distributing land grants during the Mexican Period called into question general legitimacy of many grants. Grants that were found to be legitimate often left no precise way to determine size and boundaries which led to disputes over valuable land between grant holders.²⁰ The most problematic grants were those granted hastily in the two years prior to the Mexican-American War.²¹ These grants often lacked proper written proof of ownership, were fraudulently claimed with antedated documents signed by former Mexican governors, exceeded maximum size according to Mexican law, or failed to meet the standard requirements for occupation by the owners within the required time period. Because of these complications, Congress established a three person commission to review California land grants in 1851.²²

The Land Grant Process and Results in Northern California

The findings of the Land Commission were often preliminary. Both grant holders in Northern California and the U.S. Attorney General could appeal the decisions of the Commission to the Northern District Court of Ogden Hoffman and if necessary to the U.S. Supreme Court. Once the courts confirmed a claim, it needed to be surveyed before a patent could be issued. This was a difficult process since Henry Halleck’s 1849 assessment of California land grants was proven true. In his 1849 report, Halleck concluded that many land grants were “at least very doubtful, if not entirely fraudulent.” This was because of the “inchoate nature of titles, sketchy boundaries, and the failure of grants to conform to requirements of Mexican Law.”²³

¹⁸ A floating grant, according to the *Judicial and Statutory Definitions of Words and Phrases*, is a “term applied to a grant of land by the [Mexican] government, the land not having been specifically selected; that is, a general grant of a certain amount of land, which is to be selected in the future by the grantee” (p. 2850).

¹⁹ See Howard Lamar, “Land Policy in the Spanish Southwest, 1846-1891: A Study in Contrasts.” *The Journal of Economic History* (Dec 1962), p. 499; and William Morrow, *Spanish and Mexican Private Land Grants* (San Francisco: Bancroft-Whitney Company, 1923), p. 16.

²⁰ Morrow, pp. 4-5

²¹ By 1846, there were approximately 500 ranchos in California. Half of these ranchos were granted after January 1840 (Fritz, p. 141).

²² Morrow, p. 12

²³ Christian G. Fritz, *Federal Justice in California: The Court of Ogden Hoffman, 1851-1891* (Lincoln: University of Nebraska Press, 1991), p. 137

Both the Land Commission and the Northern District Court initially focused on “strict observance of Mexican law” to ascertain whether a claim was to be confirmed or rejected.²⁴ In the ruling on the Cruz Cervantes land claim, land commissioner Harry Thornton reviewed the “foundations” of any opinion given by the Land Commission. In his summary, Thornton stressed that the commission’s jurisdiction was limited to “any obligations imposed by treaty stipulation... concerning private property of the inhabitants... derived from the Spanish or Mexican Government... [and that] such duty ought to be most punctiliously performed.” Thornton also stressed that “no distinction is noticed between different classes of claimants.”²⁵ This clarification was documented to make clear that the interests of different groups such as squatters or the California elite were subordinate to the contractual rights of land grant owners in California. According to Thornton, the only thing guiding the decisions of the Land Commission was the Treaty of Guadalupe Hidalgo which stressed that their decisions adhered to Mexican Law.

In addition to formal Mexican Law, both entities took into account the informal nature of grants in California as well as local custom outside the letter of the law. This leniency manifested in two major breaks with formal Mexican Law concerning land grants. First, neither the Land Commission nor Northern District Court rejected claims lacking legislative approval. If a grant was signed by the governor during the Mexican period, it was considered a valid title despite the fact that Mexican Law required the approval of the state legislature.²⁶ Second, both the Commission and Northern District Court “gave wide scope for oral testimony to buttress or even substitute for a lack of documentation on the part of the claimants.”²⁷

This leniency was apparent in Mariano Vallejo’s appeal to the Northern District Court for his claim to Rancho Yulupa. Vallejo acquired the claim from the original grantee, Miguel Alvarado, who received the grant in 1844. The Land Commission initially rejected the claim because no evidence was presented to show that the land had been “improved” through construction of buildings or use for agriculture. The Land Commission also received no credible evidence regarding the location and boundaries of the grant. However, in his appeal to the U.S. District Court, Vallejo provided the court a witness named Julio Carillo. Carillo testified that “he has known the lands of Yulupa since 1838... [and] that Alvarado built a house on the land, and occupied it with cattle and horses in 1843 or 1844.” Carillo’s testimony also outlined the boundaries of the rancho. Although there was no sign of any improvements made to the land in 1856, Judge Hoffman ruled that the testimony of Carillo “sufficiently... removes the only objection urged to a confirmation of the claim.” Hoffman also accepted the boundaries described by Carillo because they did not conflict with surrounding land grants.²⁸

²⁴ Fritz, p. 134

²⁵ Harry Thornton, *Opinions Delivered by Harry I. Thornton, as one of the Commissioners of the Board to Ascertain and Settle Private Land Claims, in the State of California, under the Act of Congress of the 3rd of March 1851* (San Francisco: Francis A Bonnard, 1853), pp. 6-7

²⁶ Fritz, p. 144

²⁷ Fritz, pp. 142-144

²⁸ Ogden Hoffman, *Reports of Land Cases Determined in the United States District Court for the Northern District of California. June Term, 1853 to June Term 1858, Inclusive*, pp. 174-175

This leniency was extended even further after 1855 when the U.S. Supreme Court ruled on appeals for Las Mariposas by John C. Fremont and Rosa Morada by Cruz Cervantes. Both claims were rejected by Ogden Hoffman because he saw “a ‘total neglect’ on the claimant’s part to comply with any of the conditions (including habitation on the land within one year) for at least five and possibly eight years after the concession.”²⁹ In Hoffman’s opinion, this constituted abandonment of the grant. However, The U.S. Supreme Court majority opinion written by Chief Justice Roger Taney disregarded the previous precedents from Florida and Louisiana land grant cases used by Hoffman in his rulings and set a new precedent for California grants. Taney overturned Hoffman’s rulings and supported the confirmation of the Fremont and Cervantes claims. Taney supported his decision by explaining that California land grants were mostly rewards for military service. Because of this, the requirements for occupation and improvement outlined by the Mexican government did not invalidate the grants.³⁰ While the pressure by Fremont’s supporters in Washington D.C. may have influenced the confirmation of his grant, the Fremont and Cervantes cases together were used as the precedent for future land claims made in the Northern District Court and U.S. Supreme Court.³¹

U.S. Attorney General Caleb Cushing did not agree with the lenient precedent established by the U.S. Supreme Court and appealed an overwhelming number of cases between 1852 and 1856. However, a limited number of prosecutors unable to handle the large case load and associated archival research led to the dismissal of many of Cushing’s appeals because of a failure of the government to prosecute the cases. In an effort to show some progress in the resolution of land claims, Cushing began dismissing cases confirmed by the land commission and district courts in his last year as Attorney General. By March 1857, Cushing dismissed 434 of the 515 cases he had appealed to the district courts and U.S. Supreme Court.³² Caleb Cushing’s successor, Jeremiah S. Black, also worked towards a goal of having many of the remaining 81 California land grant cases rejected. Unlike Cushing, Black did not dispute the precedent of leniency established by the U.S. Supreme Court. Instead, Black focused on exposing fraud, forgery, and perjury in California land titles. Using this strategy, Black more successfully obtained rejections by the courts between 1857 and 1860.³³

In total, the U.S. courts confirmed 618 California claims out of 813 brought into adjudication.³⁴ In Northern California, 428 total claims were made to the Land

²⁹ Fritz, p. 147

³⁰ Fritz, p. 150.

³¹ Fritz, p. 148-149; Hoffman specifically references the Fremont Case as precedent in claims by Charles Weber, Anastasio Chobolla, Antonio Maria Pico, Janes Noe, Andres Pico, and Sebastian Nunez. Although not specifically cited in other cases, the precedent is clear in his rulings after 1855. Several summaries of cases confirmed by Hoffman state that Hoffman personally felt the claim should be rejected but he was forced to confirm them due to the U.S. Supreme Court precedent established by the Fremont and Cervantes cases (Hoffman, Appendix A, pp. 1-109).

³² Fritz, p. 158-163

³³ Fritz, p. 163-164

³⁴ R.H. Allen. “The Influence of Spanish and Mexican Land Grants on California Agriculture.” *Journal of Farm Economics* (Oct 1932), p. 679.

Commission.³⁵ Out of this total, 218 were made by non-Hispanic claimants, 208 by Hispanic claimants, and 2 by Native Americans. The initial rulings of the Land Commission slightly favored Anglos over Hispanics in Northern California. Of the initial Land Commission rulings, 49% of Non-Hispanic claims were rejected while 58% of Hispanic claims were rejected. Although severely over-stating the different initial outcomes between Hispanics and non-Hispanics, Kim David Chanbonpin is most likely correct that this discrepancy was due to Hispanics hiring unqualified lawyers, having issues with language, and not fully understanding U.S. court procedures. However, the existing data conflicts with Chanbonpin's assertion that higher courts overturned even the few confirmations given to Hispanics. The *Reports on the Land Cases* reveal that the Northern District Court reversed twenty-two cases rejected by the commission for non-Hispanics and thirty-three cases rejected by the commission for Hispanics. When looking at the status of land grants after appeals were completed to the Northern District Court, we see that 34% of non-Hispanic claims were rejected while only 33% of Hispanic claims were rejected.³⁶

In addition, Chanbonpin's analysis of the land claim by John C. Fremont misinterprets the events. Chanbonpin argues that the ruling on Fremont's land claim in Las Mariposas demonstrates the court's double standard when treating land claims by non-Hispanics. However, a more careful reading of court rulings shows that the Supreme Court Ruling in the Fremont case set a precedent for the courts to be lenient regarding proof needed to recognize a claim for both Hispanics and non-Hispanics. Hoffman specifically referenced the Fremont Case as precedent in claims by Charles Weber, Anastasio Chobolla, Antonio Maria Pico, Janes Noe, Andres Pico, and Sebastian Nunez. In his adjudication of the claim made by Antonio Pico, Hoffman specifically stated that, "It is not pretended that the grantee ever complied, during the existence of the former Government, with the conditions of the grant." But, despite this admission by the claimant, Hoffman ruled that Pico was "entitled to confirmation under the ruling of the Supreme Court in Fremont's case."³⁷ After 1855, Hoffman consistently applied this standard in all his rulings.³⁸

By 1861, 32 (16%) Hispanic owned claims were patented and 33 (15%) non-Hispanic claims were patented and the status of the overwhelming majority of cases had been settled by the courts.³⁹ The similarity in results between Hispanic and non-Hispanic land claims by the Land Commission, Northern District Court, and U.S. Supreme Court does not support the

³⁵ This number excludes claims made for lots inside municipalities. I excluded these numbers since my focus is on the large land grants and additional bureaucratic complications complicates their analysis. I use the term "claims" as opposed to "grants" because there are a much greater number of claims because many original grants had been subdivided and sold prior to 1851.

³⁶ Ogden Hoffman. *Reports of Land Cases Determined in the United States District Court for the Northern District of California. June Term 1853 to June Term 1858, Inclusive* (San Francisco: Numa Hubert), Appendix A, pp. 1-109. Appeals to the U.S. Supreme Court were also favorable to the claimants. In total, the U.S. Supreme Court rejected 32 claims totaling 700,000 acres. Of these 32, 18 were appeals initiated by either Attorney General Cushing or Black for cases confirmed by the District Courts. Of these 18, the U.S. Supreme Court ruled in favor of the original claimant in 16 of the 18 cases (Pitt, p. 118).

³⁷ Hoffman, pp.142- 143

³⁸ Hoffman, pp. 1-451

³⁹ Hoffman, Appendix A, pp. 1-109

widely accepted assertion of a corrupt court system motivated by racial bias found in the work of Bottoms, Johnson, and Chanbonpin. However, an analysis of judicial outcomes does not prove that racially motivated actions outside of court rulings contributed to the decline of Hispanic land owners.⁴⁰

Hispanic Land Speculation

The summary of land claims in California published as an appendix in *Reports of Land Cases Determined in the United States District Court for the Northern District of California* also lists the original grantee, the date of the original grant, and the 1851 claimant for all 813 land claims. An analysis of this data for Northern California shows that many of the grants in Northern California were part of a growing trend in land speculation during the 1840s. Land speculation included the sale of entire grants and the division of grants into smaller subdivisions for sale.

182 (43%) of the claims made in Northern California were submitted by the original grantees or heirs of the original grantee. This means that 57% of Northern California claims to the land commission were not owned by the original grantee (or his/her heirs). Of the original grantees making claims, 34 were non-Hispanic (19% of non-Hispanic claims) in 1851 which shows that most original grants were not given to Anglos, but a significant number of land sales by Hispanics to non-Hispanics took place prior to 1851.⁴¹ The actual dates of grants in Northern California are also revealing. Of the 813 claims made in California, 453 were lodged between 1841 and 1846 while 277 of these came about between 1844 and 1846.⁴² Of the 428 total claims made in Northern California, only eleven claims concerned land grants received during Spanish rule. All of these older grants were made by Hispanics and seven claims were made by the heirs of the original grantee. This indicates that these claims were in keeping with the traditional historical narrative of working ranchos long held by families who attained the land between 1795 and 1821. However, these eleven claims only constitute 2% of the total claims made in Northern California.⁴³

The remaining claims occurred after the mission system was ended by the Mexican government and mission lands were redistributed. During this period, land grants increased significantly with 170 claims based on grants given in Northern California between 1831 and 1840. Of these grants, twelve were granted to non-Hispanics and eight of these twelve submitted claims in 1851. The remaining 158 claims were based on grants given to Hispanics.

However, by 1851, only 84 Hispanics made claims on grants issued between 1831 and

⁴⁰ The success in court for land owners in California does not mean that there weren't groups trying to dispossess owners of their land. The California legislature dominated by candidates loyal to squatters passed a bill in 1856 to "convert into public land all acreage whose settlement of ownership was still pending in the courts." However, the California State Supreme Court protected Hispanic and non-Hispanic land owners when they invalidated this law in March 1857 (Pitt, p. 118).

⁴¹ Hoffman, Appendix A, pp. 1-109

⁴² Paul W. Gates, *California Ranchos and Farms 1846-1862* (Madison: The State Historical Society of Wisconsin, 1967), p. 7

⁴³ Hoffman, Appendix A, pp. 1-109.

1834 in Northern California. The other 86 claims were made by non-Hispanics which indicates that much of this land had been valued primarily as a real estate investment and had never been substantially used as a rancho by the original grantee for any significant period of time if at all.⁴⁴

The majority of Northern California claims made to the land commission in 1851 had been granted after 1840. In the last six years California remained under Mexican control, 247 grants (58% of claims made in Northern California) were issued in Northern California. Of these late grants, only 43% of the original owners still owned the land in 1851.⁴⁵ This is extremely significant because it shows that in less than a decade, 58% of these grants were sold or conveyed to others shortly after being obtained from the governor. As a result of so much land being sold, over half of these later grants were owned by non-Hispanics in 1851 although 77% of the grants were originally issued to Hispanics.⁴⁶ This indicates that these late grants were overwhelmingly seen as an investment by Hispanic land speculators selling land mostly to non-Hispanics.⁴⁷

The sale of land during this tumultuous period was potentially very lucrative. An article titled "Inflation and Reaction" in the April 19, 1851 issue of *The California Gazette* published in Benicia discussed this potential. The article calls 1845-1850 a "golden era" due to the "unexampled rise in real estate" which included the sale and rental of land. The article goes on to lament the fall in the value of land due to litigation started as a result of the 1851 Land Act enacted the month prior to the publication of this particular article. The author recounts how individuals (mostly but not exclusively Hispanic) who sold land during this period made a great deal of money, but individuals (mostly but not exclusively non-Hispanic) who bought land at high prices in the hopes of selling it for a profit were struggling to remain solvent as a result of depressed land values brought on by the 1851 Land Act.⁴⁸ Interestingly, the article makes no mention of race or nationality in relation to land or complications caused by the 1851 Land Act.⁴⁹

⁴⁴ Hoffman, Appendix A, pp. 1-109.

⁴⁵ 77% of these recent grants were given to Hispanics while 23% were granted to non-Hispanics.

⁴⁶ Hoffman, Appendix A, pp. 1-109.

⁴⁷ This also creates complications for the Land Commission, because it was often unclear if the required improvements and occupation requirements were met to validate these grants by the original grantee or the subsequent owner of the grant.

⁴⁸ *California State Gazette*, No. 2, 19 April 1851.

⁴⁹ Another example of land speculation was summarized by David Vaught in his article titled, "A Tale of Three Land Grants on the California Borderlands." The grant of Rancho Laguna de Santos Calle, which occupied the same area as two other land grants (Los Putos and Rio de los Putos), was originated by Victor Prudon, Mariano Vallejo's personal secretary. He fraudulently created the grant by forging the needed signatures and sold it to three Anglo land speculators. Documents brought to the Land Commission by these speculators were found to have forged signatures and were deemed an obvious hoax by the land commission.

Table 1. Northern California Land Claims Divided by Decade of Original Land Grant

| Age of Northern California Land Claims in 1851 | Total Land Claims for period | Claimant | Ethnicity of 1851 claimant | % of claims by non-grantee / non-heir | % of claims by grantee or family | % of all claims in Northern California |
|--|------------------------------|---------------------------------|--------------------------------------|---------------------------------------|----------------------------------|--|
| 1-10 yrs (Granted 1841-1850) | 247 | Grantee/heir: 107 Other: 140 | Hispanic : 113 Non-Hispanic : 134 | 57% | 43% | 58% |
| 11-20 yrs (Granted 1831-1840) | 170 | Grantee/heir: 67 Other: 103 | Hispanic : 84 Non-Hispanic : 86 | 60% | 40% | 40% |
| 21-30 yrs: (Granted 1821-1830) | 4* | Grantee/heir: 4 Other: 0 | Hispanic : 4 Non-Hispanic : 0 | 0% | 100% | 0.93% |
| 31 yrs and older (Granted prior to 1821) | 7 | Grantee/heir: 4 Other: 3 | Hispanic : 7 Non-Hispanic : 0 | 43% | 57% | 1.6% |

| | | | | | | |
|-------|-----|----------------------|---------------------------|-----|-----|-----|
| Total | 428 | Grantee/heir: 182 | Hispanic : 208 | 57% | 43% | N/A |
| | | Other: 246 | Non- Hispanic : 220 | | | |

This table shows that 58% of land grants in Northern California came in the last years of Mexican rule and that only 11 of 428 grants were used as long held family ranchos dating back to Spanish rule. The majority of the most recent grants were conveyed to non-family members (most of whom were non-Hispanic) in the short time between the original grant and the claim made before the 1851 land commission which indicates that the grant was seen as a real estate asset that was intended to be sold by the original grantee.

* All four grants were obtained in 1821 prior to Mexican independence from Spain.

Livestock Farming in California

Despite the real estate windfall from 1845-1850 and judicial successes of both Hispanic and non-Hispanic land owners in the 1850s and 1860s, the question of whether Hispanic land owners were targets of racially motivated Americans is much more complicated than the analysis of court decisions alone. To do this, economic factors need to be considered as well. Understanding the economic context of mid-nineteenth century California requires examining the state's economy and subsequent effects of a transition from an economy primarily based on livestock to one primarily based on crops.

During the first two decades of the Mexican period in California, the primary occupation of land owners was the raising of cattle, sheep, and horses. Little was done to improve the quality of the stock of these animals that were permitted to "run wild through the year, save when they were brought together at the annual rodeo for the branding of young stock and the slaughtering of the more mature animals."⁵⁰ The Mexican cattle in California were notoriously "wild, wiry, and tough."⁵¹ The only demand for horses was to support the cattle business and there was no demand for beef outside of the immediate needs of the rancho which explains the lack of effort to improve livestock quality. Almost the sole source of income for rancheros was the sale of cattle hides and fat, which was made into tallow. These products were exported from California to New England, Europe, and Mexico.⁵²

⁵⁰ Gates, *California Ranchos and Farms*, p. 4

⁵¹ Gates, *California Ranchos and Farms*, p. 4

⁵² Gates, *California Ranchos and Farms*, p. 4

The value of hide and tallow was so low that great quantities needed to be sold and the maintenance of large herds necessitated the vast land holdings of the most successful rancheros. For example, in 1847, the U.S. Commissary Department bought five head of cattle for thirty dollars and prices were even lower for hide and tallow coming from a single animal. The majority of the largest and best stocked ranchos were located in Southern California and included the De la Guerra family, who cumulatively owned 488,329 acres; The American immigrant, Abel Stearns, who owned 200,000 acres; and Joaquin Estrada who owned 70,000 acres.⁵³ While the ranchos of the early nineteenth century were working ranchos whose vast acreage was used for livestock grazing, the value and use of land began to change by the end of the Mexican Period. By 1860, land in Northern California began to increasingly be used for the production of wheat and high quality livestock which utilized much less land. This change in land use made large estates measured in leagues obsolete and not economically viable.⁵⁴

However, because of the significant increase in population due to the Gold Rush, the demand for cattle of any quality temporarily rose between 1848 and 1857. Rancheros received high returns for their cattle. Cattle that were only worth two or three dollars prior to 1848 often sold for anywhere between twenty-five and fifty-two dollars in the 1850s. The established ranchos in Southern California met this demand by driving cattle north between 1851 and 1854.⁵⁵ However, they began meeting competition from Americans driving cattle from Texas, Arkansas, and Missouri which began to lower cattle prices by the end of the decade in California. Individual ranchers began replacing native longhorns with stronger stock from the East. Complicating matters, the number of cattle in California grew from 262,659 head in 1850 to 1,233,937 in 1860. This combined with a sustained drought from 1854-1863 caused major issues with overgrazing and the loss of cattle for all ranchers in California. Those ranchers who survived these troubled times concentrated on improving the quality of their stock while simultaneously reducing the number of cattle owned to a number that could be sustained by the environment and reserves of hay.⁵⁶

Napa and Solano County Case Studies

The changing use and value of land in California can be seen by looking at the counties of Solano and Napa during this period of transition.⁵⁷ Two of the earliest land speculators in Napa and Solano Counties were the Californios Salvador Vallejo, who received the grant for Napa in 1838, and Nicolas Higuera, who received the grant for Entre Napa in 1836.⁵⁸ Higuera was a

⁵³ Gates, *California Ranchos and Farms*, p. 6-7

⁵⁴ "1850-1880 Agricultural Schedule 2 for Napa and Solano Counties."

⁵⁵ Gates, *California Ranchos and Farms*, p.17.

⁵⁶ Gates, *California Ranchos and Farms*, p. 22-26.

⁵⁷ By 1851, Solano County was divided into the land grants of Los Putos, Rio de los Putos, Las Putas, Suscol, Los Ulpinos, Suison, and Los Tolenas. Napa County was up of the land grants of Napa, Tulucay, Yajome, Entre Napa, Huichica, La Jota, Locoallomi, Carne Humana, Catacula, Caymus, Lup Yomi, and Chimiles.

⁵⁸ Hoffman, Appendix A, pp. 1-109.

Mexican soldier stationed in San Francisco from 1819-1823. Once he received his land grant, Higuera became a ranchero and built up a stock of 2,000 cattle and 3,000 horses.⁵⁹ Higuera eventually sold his livestock and subdivided his rancho into 13 separate plots and sold these plots to mostly American settlers by 1847.⁶⁰ Despite being the original grantee, Nicolas Higuera never brought a claim before the Land Commission because he no longer owned land that was part of a Mexican Land Grant after 1847. Similarly, the Californio businessman Salvador Vallejo divided his land grant of Napa into 29 separate plots and, like Higuera, sold them to American settlers prior to 1851. Vallejo did defend the 3,178 acre portion of his Napa grant which he retained along with several other land holdings in Northern California.⁶¹

Salvador Vallejo was very successful in defending his portion of the Napa grant. His claim was confirmed by the Land Commission in 1854 and this confirmation was confirmed by the Northern District Court in 1856. A second appeal to the U.S. Supreme Court was dismissed in 1857 at the end of Caleb Cushing's tenure as Attorney General.⁶² Although he successfully defended his remaining land in court, Vallejo suffered from attacks by squatters on his 3,178 acre rancho. When his crops were burned after his land was confirmed, Vallejo sold his ranch in Napa for \$160,000 and moved to San Francisco.⁶³ Over the next decade and a half, Salvador Vallejo was successful in business and also served as a major in the American Civil War.⁶⁴ His success continued until three years before his death when he went bankrupt as a result of the loss of investments during the Panic of 1873.⁶⁵

Most of the 42 American claimants who bought land from Higuera and Vallejo hired the law firm of Halleck, Peachy and Billings to present their claims to the Land Commission and the Northern District Court.⁶⁶ Although Leonard Pitt described Halleck and his law partners as hard workers who "refrained from taking [their] 'pound of flesh' from the Californians as compensation," Paul Gates described him in a different light.⁶⁷ Gates states that

⁵⁹ "History of Napa County and the City of Napa" downloaded from http://wordpress.napahistory.org/wordpress/?page_id=1107 on 7Apr15.

⁶⁰ Hoffman, Appendix A, pp. 1-109.

⁶¹ Hoffman, Appendix A, pp. 1-109.

⁶² Hoffman, Appendix A, pp. 1-109.

⁶³ Pitt, pp.96-97. Salvador Vallejo was not alone in dealing with squatters. All of the large land holders in Solano County had issues with Squatters who "ousted Captain A.A. Ritchie from the entire Suisun Ranch... and squatted extensively on the Ranch of Vaca and Pena... on the ranch of Wolfskill... and on the Suscol Ranch claimed by General Vallejo, and portions of it claimed by his grantees." John Moore Currey described the squatters as "particularly bitter against Captain Ritchie." He also described how squatters gained a majority in the state legislature and secured passage of laws for "their benefit and advantage" but were thwarted by rulings in the state and federal courts. Just like Salvador Vallejo, despite legal victories, Captain Archibald Ritchie eventually left the Suisun Rancho due to squatters. To escape the problems with squatters, Ritchie purchased a small, 150 acre farm in Napa where he would no longer come into conflict with squatters. This small farm was where he lived until 1857, when he was killed in an accident. (Judge John Moore Currey Memoir, p. 5).

⁶⁴ Pitt, p. 230.

⁶⁵ Pitt, p. 282.

⁶⁶ Paul W. Gates, "Adjudication of Spanish and Mexican Land Claims in California." *Huntington Library Quarterly* (May 1958), p. 234.

⁶⁷ Pitt, p. 93.

Halleck “charged fees that were substantially higher than those of his less successful competitors and, indeed, were all that the traffic would bear.”⁶⁸

According to Gates, Halleck took into consideration that the Napa and Entre Napa claims were well-developed land that held a real estate value far greater than the “lightly used ranchos” when dealing with the American settlers owning parts of Napa and Entre Napa. Despite the fact that his legal work for one claim within Napa and Entre Napa verified all the other claims, he charged each claim equally and made no concession to the cost of fifty cents per acre on plots that ranged from 100 to 640 acres despite not having to do any additional work for individual claims falling under the same land grant.⁶⁹

Table 2. Napa County Land Claims Divided by Decade of Original Land Grant

| Age of Napa County Land Claims in 1851 | Total Land Claims for Period | Claimant | Ethnicity of 1851 claimant | % of claims by non-grantee/non-heir | % of claims by grantee or family | % of all claims in Napa County |
|--|------------------------------|------------------------------|---------------------------------|-------------------------------------|----------------------------------|--------------------------------|
| 1-10 Yrs (Granted 1841-1850) | 10 | Grantee/heir: 5 Other: 5 | Hispanic: 5 Non-Hispanic: 5 | 50% | 50% | 19% |
| 11-20 yrs (Granted 1831-1840) | 44 | Grantee/heir: 2 Other: 42 | Hispanic: 4 Non-Hispanic: 40 | 95%% | 5% | 81% |

⁶⁸ Gates, “Adjudication of Spanish and Mexican Land Claims in California,” p. 234.

⁶⁹ Gates, “Adjudication of Spanish and Mexican Land Claims in California,” p. 234.

| | | | | | | |
|--|----|------------------------------|---------------------------------|-----|-----|-----|
| 21-30 yrs (Granted 1821-1830) | 0 | Grantee/heir: 0 Other: 0 | N/A | N/A | N/A | N/A |
| 31 yrs and older (Granted prior to 1821) | 0 | Grantee/heir: 0 Other: 0 | N/A | N/A | N/A | N/A |
| Total | 54 | Grantee/heir: 7 Other: 47 | Hispanic: 9 Non-Hispanic: 45 | 87% | 13% | N/A |

The example of Napa County shows the large trend of land speculation in Northern California prior to 1851. The table shows that the Mexican government only granted land in Napa during the last years of Mexican rule and that these late grants were quickly conveyed to non-heirs who were mostly non-Hispanic mainly due to the sale of land by Nicolas Higuera and Salvador Vallejo.

A third land grant held by a Californio in Napa County was Rancho Tulucay, owned by Cayateno Juarez. Also a former soldier, Cayateno Juarez was granted his 8,865 acre rancho in 1841.⁷⁰ Juarez was married and had seven children who all lived at home. His oldest son worked on the farm while two other adult sons worked as laborers. A fourth son worked as a salesman. His two younger sons and younger daughter were listed as “at home,” but most likely still assisted with farm work as they grew older.⁷¹ Census and Agricultural schedules show that there were no other full time laborers on his farm other than himself and his oldest son. They did however hire temporary labor for a total of 26 weeks a year.⁷²

Juarez successfully defended his land grant before the Land Commission in 1853 and the Northern District Court in 1856 and received a patent for his grant soon after. By 1860, Juarez still owned 3,000 acres of his original land grant. By 1860, Juarez was already beginning to make the transition to a crop based form of farming. In addition to owning 100 horses, 25 milk cows, 12 oxen, 125 cattle, and 120 sheep, Juarez also produced 80 bushels of Corn, 40 tons

⁷⁰ Hoffman, Appendix A, p. 1-109.

⁷¹ “Free Inhabitants in the County of Napa in the state of California.”

⁷² “Productions in Agriculture in the County of Napa in the state of California: 1870.”

of hay and 50 bushels of barley.⁷³ By the time Juarez was 70 years old in 1880, he had almost fully altered his operation from a livestock based farm to a crop based farm. In 1880, he owned 1,100 acres of his original grant. He still owned 8 horses, 9 mules, 8 milk cows, 8 cattle, and 8 calves. This precipitous decline in livestock was counterbalanced by an exponential increase in crops. In 1880, Tulucay produced 70 tons of hay, 160 bushels of corn, 2,920 bushels of Barley, 1800 bushels of potatoes, and 700 bushels of Wheat. Despite the dispossession narrative, Cayateno Juarez successfully adapted farming methods and products to the changing economy of the late nineteenth century and survived any damage done by squatters in the 1850s. His success continued until his death in 1883.⁷⁴

Much like Cayateno Juarez, John Wolfskill, moved from a livestock based ranch during the Mexican period to a crop based farm in neighboring Solano County. Originally born in Kentucky, John Wolfskill was not eligible to receive a Mexican grant due to his non-Mexican citizenship.⁷⁵ In 1842, he asked his brother, William Wolfskill, who was a Mexican citizen to petition the Mexican governor for a grant. Although not the owner, John occupied, improved, and developed the grant of Rio de los Putos while William retained ownership. John eventually bought 8,700 acres from William in 1849.⁷⁶ When the claim went before the Land Commission in 1854, he had an “iron clad case” which was not appealed to the Northern District.⁷⁷ Throughout the 1850s, William and John sold parts of the 17,754 acre grant to four other brothers who moved to the area in the 1850s as well as a multitude of unrelated individuals.⁷⁸ There are also many examples where members of the Wolfskill family bought land from others during this period and resold the land at a later date. The Solano County Deeds Index lists 86 different deed transfers involving the sale or purchase of land by the Wolfskill family between 1849 and 1868.⁷⁹

Of all the Wolfskills, John seems to be the only member who maintained a farm as large as that of Cayateno Juarez over a period of decades. John married his wife in 1860 and they lived on the farm with four young children who became adults in the 1880s.⁸⁰ In 1850, Wolfskill owned 8,700 acres where he maintained 200 horses, 7 mules, 20 milk cows, 10 oxen, 150 cattle, and 50 pigs. He produced no crops in 1850.⁸¹ By 1860, John Wolfskill owned 6,600 acres of his original grant which. He owned 250 horses, 5 mules, 20 milk cows, 2 oxen, and 175 cattle. But, in addition to his livestock, he also produced 1,000 bushels of wheat, 15 tons of hay,

⁷³ “Productions in Agriculture in the County of Napa in the state of California: 1860.”

⁷⁴ “Productions in Agriculture in the County of Napa in the state of California: 1880.”

⁷⁵ Although John Wolfskill lived for a decade in New Mexico and a decade in Southern California, he never applied for Mexican citizenship like his brother William.

⁷⁶ Kristin Delaplaine. “Echoes of Solano’s Past: Wolfskill Family Set Tone for Solano’s Future.” Downloaded from http://bellavistaranch.net/suisun_history/wolfskill-konti.html on 15 Apr 15.

⁷⁷ Vaught, p. 144.

⁷⁸ “Solano County Deeds Index.” The sale of land to other family members included William Wolfskill selling four deeds totaling 8,700 acres to John Wolfskill in 1849, four deeds to his brother Mathius in 1856; John Wolfskill selling two deeds to Mathius in 1853 and 1858 and one deed to Milton in 1860. S.C. Wolfskill worked and lived with John in 1860 but owned land which he sold to Milton Wolfskill in 1860.

⁷⁹ “Solano County Deeds Index.”

⁸⁰ The 1860 Census also lists S.C. Wolfskill and his family and 7 farm laborers as living with John Wolfskill.

⁸¹ “Productions in Agriculture in the County of Solano in the state of California: 1850.”

200 pounds of butter, and 120 bushels of buckwheat.⁸² By 1870, John Wolfskill reduced his land holdings to 5,000 acres. By 1880, he had a very diverse farm that grew slightly to 5,200 acres where he maintained 5 milk cows, 111 cattle, and 1,800 sheep. In addition to this livestock, Wolfskill's ranch produced 300 bushels of barley, 16,000 bushels of wheat, 1100 bushels of peaches, and 100,000 pounds of grapes.⁸³

Between 1850 and 1880, both Cayateno Juarez and John Wolfskill were economically successful farmers. Both men significantly reduced their land holdings between 1850 and 1880 from an initial starting size of about 8,800 acres. In 1860 Juarez owned 3,000 acres of improved land. His sale of 2,000 acres over the next 20 years must have been profitable as a result of these improvements and the security that came with his patent. In 1860, Wolfskill owned 6,600 acres of which only 1,500 acres were improved. Over the next 20 years, he would sell 1,400 acres but invest considerably in the improvement of the remaining land so that all 5,200 acres he owned in 1880 was improved land. By 1880, there was a marked difference between the two men in regards to total land owned. But, it is undeniable that both prospered between 1850 and 1880 despite the insecurity resulting from the 1851 Land Act, issues with squatters, and taxes. Although it cannot be known for sure, the decisions by their children could have influenced the size of their land holdings in 1880 as both men were in their 70s. Juarez had only one son who seemed to take an interest in farming while the others chose non-agricultural professions. Wolfskill still had three children in their late teens and early twenties in 1880 and an extended family deeply invested in the agricultural economy of California.⁸⁴

Just across the river from John Wolfskill's Rio de los Putos was the Rancho of Los Putos owned by Juan Manuel Vaca and Juan Felipe Pena who migrated to California from New Mexico and received their 44,000 acre grant in 1843. Their grant was originally rejected by the Land Commission primarily because Pena used his step father's name (Armijo) on the original grant which prompted the Land Commission to suspect a fraudulent claim. Despite the initial set back, Vaca and Pena received confirmation of their grant upon appeal to the U.S. District Court of Northern California in 1855 and U.S. Supreme Court and received a patent soon after.⁸⁵ After their grant was initially rejected by the Land Commission, Vaca and Pena hired the lawyer John Moore Currey to defend their claim.

Due to a feud between the partners and co-owners of Los Putos, Pena hired S.C. Hastings as his primary counsel and Vaca hired John Frisbie as his primary counsel for their appeal to the Northern District Court.⁸⁶ The two new lawyers' sole purpose was to prevent the need for any interaction between Vaca and Pena. Both Frisbie and Hastings partnered with John Currey who became the primary lawyer for the claim on Los Putos. Vaca and Pena each

⁸² "Productions in Agriculture in the County of Solano in the state of California: 1860."

⁸³ "Productions in Agriculture in the County of Solano in the state of California: 1880."

⁸⁴ "1870 U.S. Census for Napa and Solano California."

⁸⁵ Vaught, p. 144-145.

⁸⁶ The feud between Vaca and Pena started as a result of Juan Manuel Vaca selling 5,769 acres of land to William McDaniel to secure the name "Vacaville" for the new town started by McDaniel. In addition to having the town named after him, Vaca also received \$3,000 and 1,044 lots in the new town (Kristin Delaplane, "Family Feud rocks Lagoon Valley Settlers.")

promised to pay their lawyers one tenth of their land after receiving both confirmation and patent. After two years of work, Currey secured a confirmation from the Northern District Court and then successfully defended the title before the U.S. Supreme Court and obtained a patent for the land prior to 1861.⁸⁷

Historian David Vaught used John Moore Currey as an example of a lawyer charging an excessive amount for legal services because he obtained 4,500 acres of land near the banks of the Putah Creek.⁸⁸ Vaught asserts that this was an excessive charge for his services because of the amount of land and its prime location on the river.⁸⁹ However, in his description of the work of Henry Halleck, Leonard Pitt explained in detail that charging between 5-10% of the value of unimproved land was a fair and minimal charge for legal services.⁹⁰ Since Los Putos was 10 Leagues in size (approximately 45,000 acres), 4,500 acres is about 10% of the land.⁹¹ The location also made sense because, as Vaught described in his own article, Vaca and Pena lived on the southern portion of Los Putos and had no intention of moving to the northern section of their grant which was unimproved due to its proximity to Wolfskill's Rio de los Putos. Also, if Vaca and Pena had not insisted on obtaining separate counsel due to their personal feud, they might have been charged less for legal services.

As a result of the costly feud between the two families, Juan Manuel Vaca and most of his children and extended family left Solano in the early 1850s.⁹² Only a few are listed on the Census as laborers for other farmers including the Pena family after 1850. Despite no longer residing in Solano, the Vaca family continued to own land until 1860. Before their exodus, the Vacas sold 14 parcels of land between 1848 and 1852 to non-Hispanics. Juan Manuel conveyed his remaining share of Los Putos to twelve family members between 1851 and 1855. Between 1859 and 1863, these family members sold 37 separate parcels and had no significant agricultural land holdings in Solano after 1859.⁹³

In contrast to the Vacas, a portion of the Pena family continued farming in Solano. In 1850, Juan Felipe Pena owned 20,000 acres of land with a value of \$25,000. He maintained 50 horses, 6 mules, 12 milk cows, 16 oxen and 750 cattle.⁹⁴ Between 1850 and 1860, Juan Felipe sold 18 parcels of land to non-Hispanic settlers. Between 1859 and 1861 he distributed 27 separate parcels of land to eight adult family members. After his death in 1863, he left the family home to his daughter Nestora who continued to live with her mother. Only three

⁸⁷ John M. Currey, "Spanish Land Grants in Solano," *The Solano Historian*, Vol. VI No. 2 (December 1990), p.7.

⁸⁸ Currey's memoir states that this acreage was after he bought out his two partners and was the total land given by Vaca and Pena. He defends the payment by citing the large amount of work and travel undertaken in the two year period to secure the claim.

⁸⁹ Vaught, p. 146.

⁹⁰ Pitt, p. 91-94.

⁹¹ According to John Moore Currey's memoir, the 4,500 acres includes the land he bought from his co-counsels after successfully defending the Los Putos grant.

⁹² Kristin Delaplane, "Family Feud Rocks Lagoon Valley Settlers." Downloaded from <http://www.solanohistory.org/501> on 1 Mar 15.

⁹³ "Solano County Archives Deeds Index."

⁹⁴ "Productions in Agriculture in the County of Solano in the state of California: 1850."

individuals from the Pena family continued actively farming in Solano while the other six family members sold their land to non-Hispanics between 1860 and 1869.⁹⁵

In 1870, Demetrio Pena owned 2,000 acres of land valued at \$50,000. On it he maintained 8 horses, 2 milk cows, and 50 pigs. Pena also grew 4,000 bushels of wheat and 2,000 bushels of barley. John Pena owned 286 acres of land valued at \$4,000 dollars. On it he maintained 4 horses and 1 milk cow. He also grew 1,300 bushels of wheat and 200 bushels of barley in 1870.⁹⁶ By 1880, Demetrio still owned 2,000 acres of land valued at \$42,000 and Nestora Pena owned 500 acres of land valued at \$16,000.⁹⁷

Table 3. Farm Size in Napa and Solano Counties

| | | | | |
|-------------------------------|------------------------------|---------------------------------------|------------------------------------|---|
| 1860 Napa, Napa Township | Average Farm Size: 769 acres | Average Hispanic Farm Size: 607 acres | Average Anglo Farm Size: 803 acres | Cayateno Juarez Farm Size: 3,000 acres |
| 1880 Napa, East Napa Township | Average Farm Size: 284 acres | Average Hispanic Farm Size: 302 acres | Average Anglo Farm Size: 282 acres | Cayateno Juarez Farm Size: 1,100 acres |
| 1880 Solano, Vacaville | Average Farm Size: 286 acres | Average Hispanic Farm Size: 845 acres | Average Anglo Farm Size: 268 acres | Demetrio Pena Farm Size: 2,000 acres Nestora Pena Farm Size: 500 acres |

The loss of property (measured in acres) is the metric most often used to prove the dispossession of Hispanic land owners after California became a U.S. state. However, a comparison of property holdings between Hispanics and non-Hispanics during the thirty years after California became a state reveals that land holdings for Hispanics were comparable to non-Hispanics which supports the argument that a changing economy was the major reason for loss of property. It is also revealing to note that both Cayateno Juarez and Demetrio Pena were able to maintain land holdings well above the average for Napa and Solano Counties.

Like the Vaca and Pena families, the Armijo family moved from New Mexico to California in the last decade of Mexican rule. Jose Armijo received a floating grant in Solano

⁹⁵ “Solano County Archives Deeds Index.”

⁹⁶ “Productions in Agriculture in the County of Solano in the state of California: 1870.”

⁹⁷ “Productions in Agriculture in the County of Solano in the state of California: 1870.”

County of approximately 13,000 acres called Las Tolenas in 1840.⁹⁸ Tragically, Jose and his wife died suddenly from pneumonia in 1849 leaving their oldest son Antonio to take care of the rancho and his younger siblings who ranged in age from 11-23. In 1850, Antonio still owned all 13,000 acres of the original grant worth \$15,000. On this land he maintained 25 horses, 15 mules, 7 milk cows, 20 oxen, 725 cattle, 26 sheep, and 25 pigs.⁹⁹ Only a year after the death of his parents, tragedy struck again when Antonio also suddenly died leaving the four remaining children to fend for themselves.¹⁰⁰ Not surprisingly, there is no further evidence of agricultural production by the Armijo's on Los Tolenas after 1850. But, much like the other land owners in Solano County, they received a relatively quick and favorable decision in the courts. After the Las Tolenas grant was originally rejected by the Land Commission in 1853, it was confirmed by the Northern District Court in 1856 and not challenged any further.¹⁰¹ But, this good news had little benefit to the Armijo children.

Because of their youth, it is likely true that they were vulnerable to unscrupulous, immoral, and opportunistic lawyers. According to an article published by the Solano County Historical Society, "The honest, trusting Armijos pinned too much faith in their attorney and as a result of his lethargy and love of his fishing tackle – and some say his bottle – lost much of their land and livestock."¹⁰² A review of the Solano County Deeds Index supports this view. When looking at the real estate transactions of the Vacas, Penas, and Wolfskills, there was a large volume of buying and selling land by these families. In contrast, the Armijo children only sell land between 1849 and 1868. In a twenty year period, the Armijo children sell off 62 separate parcels of land while their lawyers most likely benefitted from the loss of land by the Armijos.¹⁰³

The continued corruption associated with Las Tolenas after the Armijo claim was confirmed might more rightly be attributed to unscrupulous lawyers than the Armijo children. Because Las Tolenas was a floating grant, there was a continued controversy over its boundaries. The original grant gave the Armijo's the right to select three leagues (approximately 13,000 acres) within a larger 30 league area. Prior to the Northern District Court ruling in 1856, the General Land Office sold 500,000 acres within the 30 league area to eleven Anglo settlers who began farms, submitted surveys for patenting, and thought their ownership was unquestioned. However, the lawyers working in the name of the Armijos claimed the land of these eleven Yankee settlers in their survey of Las Tolenas. With the improvements the farmers had made, the land was much more valuable than it had been previously. The Armijo's received their patent in 1868 and immediately evicted the farmers who had previously received government patents.¹⁰⁴ Tellingly, the Solano Archives Deeds Index shows that the Armijos sold no land

⁹⁸ Hoffman, Appendix A, p. 1-109.

⁹⁹ "Productions in Agriculture in the County of Solano in the state of California: 1850."

¹⁰⁰ Sabine Goerke-Shrode. "Mystery of His Wealth Outlives Armijo." Downloaded from Historical Articles of Solano County Online Database on Feb 16, 2015 http://www.solanoarticles.com/history/index.php/weblog/more/mystery_of_his_wealth_outlives_armijo/

¹⁰¹ Hoffman, Appendix A, pp. 1-109.

¹⁰² Sabine Goerke-Shrode. "Mystery of His Wealth Outlives Armijo." Downloaded from Historical Articles of Solano County Online Database on Feb 16, 2015 http://www.solanoarticles.com/history/index.php/weblog/more/mystery_of_his_wealth_outlives_armijo/

¹⁰³ "Solano County Archives Deeds Index."

¹⁰⁴ Gates, "The California Land Act of 1851," p. 406-407.

between 1861 and 1867, but, sold six parcels in 1868. In total, the events surrounding the confirmation of the Armijo claim proves that there were unscrupulous and immoral people in Northern California who would take advantage of anyone, Hispanic or non-Hispanic, if there was enough of an opportunity.

Including the claims of Vallejo, Juarez, Vaca, Pena, Wolfskill, and Armijo, 65 land grant claims from Solano and Napa Counties were brought before the Land Commission between 1852 and 1853. Of these, only 11 claims were made by Hispanics. The 54 non-Hispanic claimants had bought land from Nicolas Higuera, Salvador Vallejo, or Mariano Vallejo who all came from traditional Californio families and profited from the planned sale of their grants. The only cases from Solano and Napa that were not resolved on the district court level and were appealed to the U.S. Supreme Court were the claims of the non-Hispanic owners H.F. Teschemacher and A.A. Ritchie, and the Hispanic owners Juan Manuel Vaca and Juan Felipe Pena.¹⁰⁵ The majority of the other land claims were resolved by 1857 without having to go to the U.S. Supreme Court. All land owners had to deal with the uncertainty of their land grants, squatters, taxes, and state legislation favoring squatters. But, they also received support for the removal of squatters once land grants were confirmed and state financial aid for modernizing farming techniques for both livestock and crops.¹⁰⁶ Despite many difficulties, survival and success depended on an ability to adapt economically to the decline of large scale ranching based on inexpensive cattle and had very little to do with a the court system adjudicating land claims.

Conclusion

There is no doubt that many individual tragedies like the one the Armijo family experienced came about due to the turbulent environment in California resulting from the Gold Rush, diverse population growth, and adjustment to American rule. Individual stories like the Armijo saga are undeniably numerous during this period in California. But, a concentration of unscrupulous land speculators and lawyers is not evidence of a corrupt legal process designed by the U.S. federal government to take land from Hispanics in California as many historians assume. If anything, court results on the state and federal level reveals a Whig influenced tendency to defend property rights over other political and cultural concerns. The California State Supreme Court showed this when they declared the 1856 land law passed by the California legislature Unconstitutional.¹⁰⁷ The Northern District Court and U.S. Supreme Court also showed this tendency with their extremely lenient standards applied to land claims for both Hispanic and non-Hispanic claimants.

An economic comparison between similar Hispanic and non-Hispanic land owners in Northern California also indicates that there were many significant obstacles to economic success. But, these obstacles were not insurmountable for Hispanic or non-Hispanic land owners in Northern California. Hispanic land speculators began selling newly acquired land in

¹⁰⁵ Hoffman, Appendix A, pp. 1-109.

¹⁰⁶ Gates, *California Ranchos and Farms*, p. 74.

¹⁰⁷ Pitt, p. 118.

large quantities in the 1840s. The owners actively encouraged migration into Northern California for their own financial benefit with the result of changing the small, traditional, and pastoral society early nineteenth century California was known for. Those Hispanic and non-Hispanic farmers willing to adapt to a rapidly changing economy were successful and maintained large land holdings over multiple decades. Both groups reduced their land holdings significantly in Northern California because it was both economically beneficial to sell land and it was also necessary to remain economically viable in an agricultural economy increasingly centered on crops such as wheat, barley, grapes, and fruit. Ranchers could also survive, but they also had to adapt to a more densely populated state, increased competition from the American West, and limited water and grazing resources.

Undoubtedly, Bottoms is correct when he describes a system of racial hierarchy in California. However, his dispossession narrative is unconvincing when applied to Hispanic families that befriended non-Hispanics, married non-Hispanics, formed business partnerships with non-Hispanics, were elected to state wide offices, and were listed as “White” on the U.S. Census. Landless settlers who squatted on vast land grants, despised large land owners, pushed the California state legislature to implement property taxes, and championed anti-monopolism were a major problem for both Hispanic and non-Hispanic land owners. But, these factors need to be accurately combined with changing economic conditions and a comprehensive analysis of primary documents associated with the 1851 Land Commission, Northern District Court of California and the U.S. Supreme Court in order to gain a more accurate understanding of events in Northern California between 1840 and 1880.

Bibliography

Allen, R.H. “The Influence of Spanish and Mexican Land Grants on California Agriculture.” *Journal of Farm Economics*, Vol. 14, No. 4 (Oct 1932), 679-680.

Bowen, Jerry and Sabine Goerke-Shrode. “Historical Articles of Solano County Online Database.” Vacaville Heritage Council. <http://www.solanoarticles.com/history> (accessed February 16, 2015).

Bottoms, D. Michael. *An Aristocracy of Color: Race and Reconstruction in California and the West, 1850-1890*. Norman: University of Oklahoma Press, 2013.

California State Gazette, No. 2, 19 April 1851.

Chanbonpin, Kim David. “How the Border Crossed Us: Filling the Gap between *Plume v. Seward* and the Dispossession of Mexican Landowners in California after 1848.” *Cleveland State Law Review*, Vol. 52, No. 1 (2005), 298-315.

- Currey, John M. "Spanish Land Grants in Solano." *The Solano Historian*, Vol. VI No. 2 (December 1990), 3-8.
- Dana, Richard H. *Two Years Before the Mast*. New York: Houghton Mifflin Company, 1911.
- Delaplane, Kristin. "Echoes of Solano's Past: Wolfskill Family Set Tone for Solano's Future." http://bellavistaranch.net/suisun_history/wolfskill-konti.html (accessed Apr 15, 2015).
- Delaplane, Kristin. "Family Feud Rocks Lagoon Valley Settlers." <http://www.solanohistory.org/501>(accessed Apr 1, 2015).
- Ebright, Malcolm, ed. "An Enduring Legacy: California Ranchos in Historical Perspective." *Spanish and Mexican Land Grants and the Law* (Yuma: Sunflower University Press, 1989), pp. 36-39.
- Fritz, Christian G. *Federal Justice in California: The Court of Ogden Hoffman, 1851-1891*. Lincoln: University of Nebraska Press, 1991.
- Gates, Paul W. "Adjudication of Spanish Land Claims." *Huntington Library Quarterly*, Vol. 21, No. 3 (May 1958), pp. 213-236.
- Gates, Paul W. "The California Land Act of 1851." *California Historical Quarterly*, Vol. 50, No. 4 (Dec 1971), pp. 395-430.
- Gates, Paul W. *California Ranchos and Farms 1846-1862*. Madison: The State Historical Society of Wisconsin, 1967.
- "History of Napa County and the City of Napa." Napa County Historical Society. http://wordpress.napahistory.org/wordpress/?page_id=1107 (accessed on 7Apr15).
- Hoffman, Ogden (District Judge). *Reports of Land Cases Determined in the United States District Court for the Northern District of California. June Term, 1853 to June Term 1858, Inclusive*. San Francisco: Numa Hubert, 1862.
- Johnson, Susan Lee. *Roaring Camp: The Social World of the California Gold Rush*. New York: W.W. Norton & Company, 2000.
- Lamar, Howard R. "Land Policy in the Spanish Southwest, 1846-1891: A Study in Contrasts." *The Journal of Economic History*, Vol. 22, No. 4 (Dec 1962), 498-515.

Morrow, William W. *Spanish and Mexican Private Land Grants*. San Francisco: Bancroft-Whitney Company, 1923.

Paddison, Joshua. "Capturing California." *California History*, Vol. 81, No. 3/4 (2003), 126-136.

Pisani, Donald J. *Water, Land, and Law in the West*. Lawrence: University Press of Kansas, 1996

Pitt, Leonard. *The Decline of the Californios: A Social History of the Spanish-Speaking Californians, 1846-1890*. Los Angeles: University of California Press, 1966.

Shelton, Tamara Venit. *A Squatter's Republic: Land and the Politics of Monopoly in California, 1850-1900*. Berkeley: University of California Press, 2013.

"Solano County Archives Deeds Index."

Thornton, Harry I. *Opinions Delivered by Harry I. Thornton, as one of the Commissioners of the Board to Ascertain and Settle Private Land Claims, in the State of California, under the Act of Congress of the 3rd of March 1851*. San Francisco: Francis A Bonnard, 1853.

U.S. Census Bureau. "Free Inhabitants in the County of Solano in the State of California: 1850." Historical Schedule I.

U.S. Census Bureau. "Free Inhabitants in the County of Solano in the State of California: 1860." Historical Schedule I.

U.S. Census Bureau. "Free Inhabitants in the County of Solano in the State of California: 1870." Historical Schedule I.

U.S. Census Bureau. "Free Inhabitants in the County of Solano in the State of California: 1880." Historical Schedule I.

U.S. Census Bureau. "Productions in Agriculture in the County of Solano in the State of California: 1850." Historical Schedule 4.

U.S. Census Bureau. "Productions in Agriculture in the County of Solano in the State of California: 1860." Historical Schedule 4.

U.S. Census Bureau. "Productions in Agriculture in the County of Solano in the State of California: 1870." Historical Schedule 4.

U.S. Census Bureau. "Productions in Agriculture in the County of Solano in the State of California: 1880." Historical Schedule 4.

Vaught, David. "A Tale of Three Land Grants on the Northern California Borderlands." *Agricultural History*, Vol. 78, No. 2 (Spring, 2004), pp. 140-154.

Primary Source Databases:

Solano County Deeds Index (<http://www.rootsweb.ancestry.com/~cascgsi/deedpelper.htm>)

Ancestry.com (<http://www.ancestry.com>)