CHAPTER 5

A HOLD ON THE LAND

INTRODUCTION

On the signing of the Treaty of Guadalupe Hidalgo in 1848, all undeeded land in California became part of the public domain of the United States. More than a century later, from 1967 to 1973, the upper Dry Creek Valley and surrounding hills became government property once more, purchased by the U.S. Army Corps of Engineers for the Warm Springs Dam-Lake Sonoma project. Between these periods of government ownership, and long before there was a U.S. Government, other groups used the area, claiming various portions of it according to their diverse customs. We do not know how the first Southern Pomo groups gained ownership, but for an unknown length of time those people held the land and its resources communally. In the 1840s, Mexican citizens who sought official title to grants of land began the relatively brief process of dispossessing the local Indians. In the following decade, squatters, including many disenchanted miners, descended on the area fired by their Jeffersonian belief that every man was entitled to his own piece of land. Soon the more desirable sections were parcelled out by the government, leaving much of the hill country to unsanctioned use by local ranchers until the first decades of the 20th century. With hard economic times and the ascendancy of large-scale commercial agriculture, many small operations were bought out. Throughout this process, the area’s family farms became conglomerated into a few huge ranches that were themselves eventually swallowed up by an even greater force—the U.S. Government.

To understand the systems of land tenure that existed in the Lake Sonoma Area, we must look in detail at two aspects: the idea of land tenure itself—how it was conceived of by succeeding waves of settlers—and what these people believed to be the bases of individual and group rights to the land. Since the story of California’s settlement often involved the forcible displacement of one group by the next, it is revealing to look at the beliefs that allowed these people to rationalize their behavior. These questions are closely associated; in fact it is the link between belief and behavior that is the underlying subject of this chapter.

INDIAN LAND

Before the coming of the Spanish, aboriginal California was a particularly densely populated region of North America, its people numbering an estimated 150,000 to 300,000. As many as 100 languages were spoken by the numerous groups that occupied the territory. Some neighbors spoke mutually intelligible dialects of the same language; other groups shared borders with peoples whose speech was entirely different from their own.

California was as diverse culturally as it was linguistically. These differences in group values and organization were reflected in the variety of native beliefs about property and the concept of land ownership. Anthropologist Alfred Kroeber wrote extensively on the political organization of various California Indian groups. One of the most important differences that he noted between them was the relative degree of individuality or, conversely, community identity felt by members of different groups (1).

Among northern California groups such as the Yurok, the ethic of individuality was very strong, and its effects could be seen in many aspects of society. They recognized or admitted duty to no group larger than their immediate kin. Kroeber succinctly described the Yurok community as “an aggregation of individuals,” having few of the characteristics of a “society” (2). Under this atomistic system, the community held no claim to the land. Property rights were held exclusively by individuals and families and could be bought and sold for sums of general-purpose money in the form of strings of dentalium shells. The land itself, stream frontage, and the right to collect animal and plant resources, including productive acorn and seed tracts, could be disposed of in this way.

This social system contrasted markedly with that of Pomoan groups, including those who occupied the project area. These people were organized in political units called tribelets, each of which consisted of several villages and a principal town. Village
residents recognized both their local “headman” and a “captain,” who, in council with the local leaders, had limited authority over the entire group. In their attitude toward the land and its bounty can be found an even greater expression of the Pomoan feeling of community. For within community boundaries all members had access to hunting, gathering, and fishing areas, although some choice spots were controlled by families and individuals. The tribelet’s land was considered to be the exclusive property of the group and was actively defended from trespass.

Missions and Ranchos

In the mid-1700s, Spanish missionaries began their 60-year crusade, which was to climax in the construction of 21 missions reaching from San Diego to Sonoma (3). Under Spain, California was divided into four districts, each of which had its own administrative, judicial, and military center, the presidio. On arrival in an area to be missionized, the priests, backed by soldiers from the presidio, rounded up the local Indians and proceeded to instruct them in the Christian religion and set them to work on construction and agricultural projects. Under Spanish colonization laws, the church could not claim ownership of the land it controlled, since the missions were not officially viewed as permanent establishments. As neophytes, the Indians were not full citizens and consequently they too had no right to own land. Theoretically, it was the job of the priests to Christianize the Indians and educate them in the ways of “civilized”—that is, European—life so that within a few years they could assume the position of colonial citizens. It was expected that Indians would adopt a southern European-style, village-based way of life on becoming citizens, and so become incorporated into the economic system of the Spanish colonial world. In reality, the missions controlled, in effective ownership, vast tracts of land along the California coast, the sphere of influence of one mission extending as far as that of the next. Although the program of economic transformation and Christianization of California’s Indians was, for the most part, a miserable failure, the missions themselves thrived and became wealthy, while the neophytes fared poorly.
Plans to secularize the missions were begun after the Mexican Revolution of 1821 but were not carried out until 1833-34. Despite the revolution, Mexican law pertaining to colonization remained largely as it had been under Spain. The mission system was still viewed as a temporary condition, lasting only until the natives could take their place in the new religious and economic order of things; then the land would be declared public domain and conversion to private ownership could begin. To accomplish the latter goal, beginning in 1835, the Mexican governor of California radically stepped up the distribution of large grants of land, known as “ranchos,” to eligible persons who would cultivate and occupy them. Between 1833 and 1842, over 300 ranchos were granted. During this same period after secularization, the number of mission-living Indians was reduced considerably, as many of the former mission dwellers returned to their traditional lands. Others went or were taken to work for the rancheros (4).

In one such land grant, awarded in 1843 and known as the Rancho Tzabaco, José German Peña, a Mexican ex-soldier, received much of the Dry Creek Valley. Peña’s “diseño”—the map filed with his petition to Mexican Governor Micheltorena—shows the limits of his rancho (see Chapter 4). There is little doubt that Peña made use of the entire Dry Creek Valley for grazing land for his cattle and horses, although during the 1850s a U.S. commission declared that the grant ended at the junction of Warm Springs and Dry creeks. Peña’s diseño also depicts several features, including a representation of what may have been the native village of Akhamodot, indicating that members of the lower Dry Creek Pomo still occupied a principal village, in spite of the expropriation of their land.

**The American Squatters**

At the close of the Mexican War in 1848, the Treaty of Guadalupe Hidalgo officially ceded California to the United States. Under these terms, the status of privately owned tracts of land was to be similar to that within the Louisiana Purchase: the rights of landowners were to be respected and their titles confirmed, but undeeded property became part of the public domain.

With the discovery of gold came a massive increase in California’s population. The western half of the state was deserted almost overnight as would-be miners flocked to the gold fields of the Sierra Nevada. But the period of easy and profitable mining was short lived. By the early or mid-1850s, many people had begun to turn their attention from the elusive rewards of gold mining to agriculture. To their dismay, however, these new settlers did not find California untouched—or unoccupied. Writing in the early 1850s, sometime Sonoma County visitor Frank Marryat explained what they found:

The Americans, on their arrival in the country, had the mortification to discover that nearly every foot of arable land was private property, and that there remained nothing but barren hills and swamps to settle on (5).

The obstacle in their way was the ranchos. The rancheros’ extensive holdings did not conflict with alternative uses of the land when the state’s population was relatively small; but the situation changed with the influx of land-hungry Americans, who were angered by the unequal distribution of land.

For the would-be settlers, hope arrived with the establishment in 1851 of the U.S. Land Commission. The commission’s function was to examine the title to all Spanish and Mexican deeded land in California and to determine which of these claims were valid and which lands would be opened for settlement. It was several years before the commission ruled on all 813 cases that were brought before it; of these, 604 were confirmed and the rest either denied or withdrawn. Yet even the commission’s binding decisions did not end legal challenges to those who based their claim on Spanish or Mexican grants (6).

These cases often dragged on for many years, eventually bankrupting the landholders; they could not sell their land while its title was contested, yet they had to pay for years of legal fees. In 1858, Peña’s heirs sold most of the rancho, which had been confirmed by the Land Commission, to a real-estate agent. It is likely that the Mexicans felt that selling out was their wisest course, as the alternative was probably to have the land overrun by squatters.

The popular response to the validity of the rancheros’ claim was rapid and unequivocal. According to Marryat, the Americans “squatted where they pleased on the Spanish ranches under the plea that the land commissioners might decide the grant on which they were to be illegal” (7). The squatters righteously justified their claim to the land over that of the rancheros, whose feudal-like system,
they protested, was entirely incompatible with the
democratic tradition of the United States. Many
claimed that their right to the land was assured under
the 1841 federal law that allowed settlers to occupy as
yet unsurveyed portions of the public domain and
gave them first refusal on its purchase. Although the
law, in fact, gave them no such privileges on land
grants, many felt that their occupation was still
morally justifiable, in spite of being legally dubious.

L.A. Norton, a Healdsburg attorney who made his
reputation settling disputes between squatters and
landowners, defended the squatters:

Most of them, in my judgement, were honest
in their convictions that the claimants either
had no title to the lands, or if they had a title
it was fraudulent, and that many of them
today [1880] are among our most respected
and prominent citizens (8).

When Norton opened his Sonoma County office
in 1857, squatters were occupying most of the Russian
River and Dry Creek valleys, including Peña’s
Tzabaco grant, despite its confirmation by the Land
Commission. Norton soon discovered that squatters
did not recognize legal decisions made by officials in
San Francisco when these decisions went against their
interests. On one occasion, in about 1857, when
Norton called out the militia to enforce eviction, the
soldiers found themselves confronted by a party of
either 1000 or 2000 armed squatters—the account is
unclear as to the exact number. Fortunately, both
sides withdrew without injury. Norton’s next attempt
to displace these people was more subtle; seeing that
direct force was not the answer, he “went to work
hauling off the fencing from the farms on the west
side of Dry Creek, thus rendering the land useless”
(9). Happily, Norton was able to negotiate a mutually
acceptable deal with the squatters, who ended up
purchasing “their” land from its legal owners.
The briefness of the squatters’ reign in Sonoma County, as well as its illegality, resulted in an ambivalence toward the study of this phenomenon by some historians during the 19th century. Squatterism, and the organization it involved, was taken to be a mere historical aberration, a fleeting lawless phase in the settlement of the West with no lasting practical significance. Others engaged in extensive research to show that squatters’ organizations stand for the beginnings of Western local political institutions. They were the first government of the pioneer. They are fountains of that spirit of Western democracy that permeates the social and political life of America during the nineteenth century (10).

Squatters’ associations, or land-claim clubs, were common features of the 19th-century western frontier. They are known to have existed in several midwestern states as well as among squatters on California ranchos, including the Bodega and probably the Sotoyome ranchos in Sonoma County. The associations evolved in the absence of governmental regulating agencies in order to uphold the bona fide settlers’ rights to their land without the necessity of legally accepted title. Far from being a lawless mob, the association members themselves were often representatives of the law. The membership of one such organization in Iowa included a territorial governor, a delegate to the state legislature (subsequently chief justice of Iowa and California), and a judge; in Sonoma County, one Healdsburg squatter was also a justice of the peace.

The clubs were highly structured, having a variety of elected officers and formal constitutions. Their aims were quite standardized: that settlers could buy the farms they had established on government land without threat of being outbid by speculators or claim jumpers. The rules of the association specified the amount of land to which each claimant was entitled and the improvements and residence requirements necessary to hold a claim. Association “judges” settled disputes between settlers and regulated the buying and selling of claims. Court judgments were said to be “final, fatal, and eternal” (11). Those who did not abide by the associations’ rules were socially ostracized. This could be quite serious for the violator, for in those times people often had to rely on their neighbors rather than on government agencies or other organizations when they needed help. Bidding against the occupant of a parcel at the government land sale could be dangerous. The following dialogue indicates the power of the land club:

“But if [an outsider] buys your claim, what will you do?”

“Why, I’ll kill him; and, by agreement of the settlers, I am to be protected, and if tried, no settler dare, if on the jury, to find a verdict against me” (12).

In comparison with the midwestern clubs, very little is known of the structure or organization of squatters’ associations in Sonoma County (13). Although newspapers from the 1850s and early 1860s report the ouster of illegal settlers from private land, squatters are represented in a biased light, and it is difficult to determine the groups’ resemblance to those of the Midwest. The evidence of the country’s squatters that survives indicates that their “secret leagues” were widespread. The reportedly secret nature of the local associations is an interesting contrast to those of the Midwest, which published their proceedings openly. This is most likely due to the differing legal status of the land they claimed, for while the settlers of Iowa and Illinois took government land, many of California’s squatters occupied the ranchos. L.A. Norton provides evidence for the existence of a squatters court in his reference to “Judge” Forsee, an acknowledged squatter leader; Forsee was neither a county judge nor justice of the peace. Contemporary newspaper articles mention the “Chairman” of the Bodega Rancho “Settlers League,” indicating that this league had a hierarchy similar to that of the midwestern prototypes. This reference suggests that Sonoma County’s squatters were organized by rancho for the purpose of supporting members’ rights against individual grant owners. Both the numerical strength and level of organization of the county’s squatter organizations are most dramatically shown in Norton’s account of the mustering of 1000 or 2000 squatters to oppose a mass eviction. Considering that the total population of Sonoma County at that time was well under 12,000, and even granting Norton a liberal margin of exaggeration, it is clear that the squatters constituted a sizable proportion of the county’s residents (14).

**Settling the Public Domain**

In contrast to the confusion surrounding the ownership of rancho land, for a would-be settler to gain title to government land in the Lake Sonoma
Area during the 1850s and 1860s the procedure was clear: under the law of preemption, settlers could legally occupy up to 160 acres of land, which they could later purchase at $1.25 per acre (15). The passage of the 1862 Homestead Act allowed settlers to take up 160 acres of public land, which, after five years’ residence and cultivation, would be deeded to them at no charge. But before public land could be purchased or even homesteaded under the 1862 act, it had to be surveyed.

The immense job of generating subdivision maps of the public domain, thereby providing the basis for legal title by private parties, was undertaken by the General Land Office (GLO). Surveyors contracted by the GLO used the U.S. Rectangular Survey System, under which land is divided into six-mile-square townships (not to be confused with political townships), which contain 36 one-mile-square sections. Sections are divided into quarter-sections, and these in turn into quarters. Thus the smallest identifiable parcel under this system is the quarter-quarter or 40-acre subdivision. Until 1912 four quarter-quarters, or 160 acres, was the maximum and standard parcel size that could be obtained at any one time from the GLO. The GLO surveys were not intended to provide topographic descriptions of the land but to create legal boundaries. These boundaries are the basis for land titles and cannot be changed, even if found to be technically incorrect (16). Thus some township sections are not and never will be one-mile square, due to the difficulty of surveying rugged terrain.

Most of the legal problems facing settlers of the public land arose out of the size limit imposed on their claims by the Preemption and Homestead acts and the tenuous ownership rights to their land improvements.
While 160 acres of well-watered eastern agricultural land or even prime Dry Creek Valley bottomland was adequate for the support of a farming family, in much of the arid West larger holdings were needed. The problem was especially acute in the hills surrounding the Dry Creek Valley, where successful cultivation would have been possible only with irrigation. Cattle and sheep raising were the only potentially viable forms of agricultural production, yet they required several acres per animal, and profitable operation was not possible on a mere 160 acres.

In response to this situation, the hill country ranchers simply claimed, ostensibly under the Preemption Act, tracts that were much in excess of the legal limit; some considered the acreage their own to the point of paying tax on it. Although these people held no legal claim whatever to “their” land at a time when the county was overrun with squatters, they were nonetheless able to maintain control over large tracts. It is clear that land was held by the rights of possession and use, which were morally binding considerations despite their dubious legal status. These rights were supported by the implicit agreement of local landholders in much the same way that squatters on the ranchos upheld each other’s claims. The ranchers used the widespread confusion over the Preemption Act to discourage other claimants and to assert the legality of their own claims. With many deeds not officially recorded, it was advantageous that one’s title to certain land be kept ambiguous.

In addition to the rights to occupy and use land that were supported by this system of mutual recognition, the effective sale of government land was freely engaged in. The purchase, for substantial sum, of what amounted to possessory rights backed only by moral sanction is an excellent indicator of the effectiveness of the local system. Federal law, it must be emphasized, was very clear on these kinds of transactions: possessory titles were not salable, and claims resulting from these sales had no legal status (17). One such sale occurred in 1870, when rancher John Ferry paid $7000 for a possessory claim adjacent to Dry Creek (18). Like the many others who purchased these claims, Ferry ended up buying the land twice: the first time from its “possessor” and the second from the U.S. Government!

**INDIAN LAND RIGHTS UNDER THE AMERICANS**

The 20 years following the declaration of California’s statehood in 1850 saw the virtual elimination of the Indians’ title based on their prior possession. Historian and legal scholar John Dwinelle obviously considered the process complete when, writing in 1866 on the United States’ legal right to California, he omitted mention of the Indians’ claim entirely. According to Dwinelle, “Our title to California is therefore deduced from the grant by the Pope to Spain, from Spain by the revolution to Mexico, from Mexico by conquest and treaty to the United States” (19).

At this time, the regulations that governed relations between California Indians and the rest of the state’s residents were confused. While paying lip service to Indian occupation rights, the 1850 California “Act for the Government and Protection of Indians” effectively denied legal means of securing them. Provisions of the act admonished the owners of land occupied by Indians
to “permit such Indians peaceably to reside on such lands”; yet the same act stated “in no case shall a white man be convicted of any offence on the testimony of an Indian,” thus giving Indians no recourse in the case of eviction (20). Although not legally barred from presenting claims to the Land Commission, most Indians were effectively excluded from doing so because of their almost universal illiteracy and unfamiliarity with the American legal system.

In 1851 and 1852, federal commissioners traveled throughout California, met with over 400 Indian leaders, and entered into 18 treaties with them. The treaties certified the U.S. Government’s sovereignty over all land in the state, while setting aside tracts of land for Indians’ sole use and occupancy “forever.” The validity of these agreements, however, has been called into question by researchers Robert Heizer and Alan Almquist. They point out that, as the customary authority of California Indian leaders was very limited, it is doubtful that they had the right to sign away their people’s land. Of this, Heizer and Almquist say,

It would be difficult to find an example of treaty-making in which so few persons without any power to act were assumed to have released control of so much land that did not belong to them (21).

The lands chosen for the Indians had been considered useless, but a committee of the California legislature assessed them, found them to contain
mineral deposits, and filed resolutions against the proposed treaties. The committee stated that

[The miners] would be forced to shoulder their picks and shovels and seek new fields for the exercise of their enterprise and valor in the unexplored recesses of the mountains. The only plea for the necessity of which is to make room for the introduction of a few tribes of ignorant barbarians (22).

As a result of this outcry from California, the treaties were rejected by Congress in secret and remained classified for 50 years, forgotten by all but the Indians until they were made public in 1905.

Although this problem stemmed largely from undisguised racism, it was partly the result of the new Californians’ lack of understanding of the native system of land use, wherein much of a group’s territory was occupied only seasonally. In the words of one California Indian Agent, the Indians have not any particular boundaries or fixed homes for any great length of time together, but change their locations as taste or their necessities may require. Yet they all have an undistinct and undefined idea of their right to the soil, the trees and the streams (23).

Such intermittent use of the land, which was understood by bordering native groups, appeared to be mere random wandering to the newcomers and to their government, and the claims of native individuals or groups to any particular tract were not viewed as legitimate. It was inconceivable, under the American system of law, for a group to hold undivided title to the land and to expect to maintain its claim by such sporadic and seemingly arbitrary practices. As a result, the expropriation of land was easily rationalized, and the Indians’ claim extinguished, effectively forever, with no existing legal recourse.

Shortly after the treaties with California’s Indians were rejected, the federal government began to set up reservations to which many Indians were forcibly removed. By the early 20th century, the conditions under which the state’s non-reservation Indians lived had become the subject of considerable concern. As a result, a program was instituted to improve the lot of the “landless Indians” by supplying them with homesites. Between 1909 and 1927, the federal government purchased five parcels of land in northern Sonoma County as rancherias for the region’s Indians. Of these only two remain: the Stewart’s Point and Dry Creek rancherias (24).

**More on Settlers**

The General Land Office surveys of the Lake Sonoma Area opened the land to officially sanctioned settlement and purchase from the government. Despite the government’s standards, individual strategies to establish legal title still varied. This diversity can be seen in the ways in which three Dry Creek upland ranch families—Otis, Ferry, and Matthews—accumulated their substantial landholdings during the late 19th and early 20th centuries (25).

During that period, two methods of obtaining title to land in the public domain outstripped all others: “cash entry” and “homestead entry.” Under cash-entry regulations, the would-be owner, or “entryman,” had merely to pay the set price of $1.25 per acre to receive title. For a homestead, the entryman had to construct a dwelling on the land and live there for five years while cultivating a portion of the land. On completing these conditions, the settler would receive the “patent,” or title to the land. Under each system, the maximum holding that any individual could file on was 160 acres; this was a one-time privilege and could not be repeated, even if the entryman sold the original claim.

The Otises were a six-member, extended family. They used their legal right to obtain land at a low price from the government to the fullest, although they began in the area by purchasing a possessory claim. Among their first acts on moving to the area was to file for a homestead claim on the land on which their house and other buildings were located and a cash entry on the 160-acre parcel adjoining it. These were the first of a series of shrewd moves made by the family to maximize its deeded acreage while minimizing financial outlay. Over the next two decades, every member of the Otis family was to file either a homestead claim, a cash entry, or both. Of their eventual holdings of about 1600 deeded acres, which included land taken up by a third generation of Otis patentees, very little was purchased on the open market or from neighbors. Thus because of the size of the family and its willingness to take full advantage of its legal rights, the Otises gradually accumulated substantial holdings at a relatively small cost; in addition, they gained effective control of much
government land by the careful creation of islands of public land surrounded by their deeded property.

John Ferry filed for his first parcel of land in the study area in 1872 as a cash entry, in spite of the fact that he was living on the tract at the time and consequently could have obtained it as a homestead. Over the next 15 years, he purchased adjacent land and possession claims until he held deeded title to nearly 2000 acres. To increase his legal holdings in this way, Ferry mortgaged the ranch heavily. Unfortunately, in 1897 he defaulted on a mortgage, losing the entire property. Of all the study-area ranchers, Ferry seems to have been the least content with using government land; he wanted to own the land he used. By attempting to do this, Ferry put himself at the mercy of fluctuations in the national economy and other unpredictable forces. As well as mispredicting the future market for livestock, he may have assigned too much importance to land ownership. He did not foresee that, when handled correctly, possessory rights to public land would continue to be acknowledged well into the 20th century.

The third case study is of rancher George Matthews, whose family settled their farm on the banks of upper Dry Creek in 1870. By the early 1890s, Matthews had taken over the running of the family farm and, during the next 15 years, converted it from a semi-subsistence operation into a highly profitable commercial sheep ranch. Unlike his neighbors the Otises, Matthews was a single man at this time and consequently could not expand the ranch’s holdings by homesteads taken out by members of his immediate family. Unlike his friend John Ferry, Matthews chose not to put himself heavily into debt to acquire his land solely by cash purchase.

In 1901 Matthews described his holdings as “1762 acres deeded, 640 filed on 1100 Government land within boundary lines, 126 acres fenced with pickets as field and pastures but entire [ranch] is either fenced with barbed [wire] or has natural fence” (26). Fortunately, many of the details of how Matthews was able to accumulate this and his other land, while maintaining control over the undeeded 50 percent of his ranch, have been preserved in a collection of more than 2000 letters written to the
rancher between 1884 and 1915. From this collection of personal correspondence, we can find out about the kinds of activities that, while largely determining the pattern of land-distribution, were covert and consequently not reported in official records or other publicly available documents. The letters provide posterity with insights of rare depth into some little-studied historical processes. It is important to recognize, however, that the behavior revealed in the correspondence was fairly common at the time. While some of Matthews’ dealings were technically illegal, many of his contemporaries, including government officials, considered them to be largely justifiable responses to the government’s failure to develop an appropriate land-distribution policy.

Matthews’ primary strategy for gaining legal title to his ranchland was to have others file homestead applications for him, with the explicit understanding that, when the claim had been “proved up” and the patent awarded, the land would be signed over. Sometimes the land was transferred via a third party, “in order,” according to one of these people, “to cover up all tracks” (27). This technique had advantages over the straight cash purchase, as the land could be used legally, exclusively, and tax free by the entryman for the five years prior to the patent award, the homesteader paying only a nominal filing fee.

Matthews had various arrangements with his entrymen. On the most formal level was the homesteader who agreed to take up a claim “If I don’t have to come up more than once a year or thereabouts and you put on the necessary improvements” (28). This deal was concluded when, after the mandatory five years of “residence,” Matthews paid the entryman $100 for his title. Other claims were filed by Matthews’ employees, presumably with similar monetary inducements.

His arrangements made with relatives were of an entirely different character. Their claims were filed, in the words of one such individual, “without any thought of recompense”; all the family members were “glad to do you [Matthews] a favor” (29). Since no money changed hands, Matthews’ relatives believed that the “favors” they did for “cousin George” were morally irrepeligible. On occasion, it was agreed that the cousin filing the claim retained the right to extract some of the tract’s resources, such as part of the timber. Of more importance in the relationship, however, was the notion of reciprocity. Most often this took the form of an understood right of the entrymen and their families to spend the summer on Matthews’ ranch. These family summers began in 1900 and developed into a tradition that spanned 20 years. During the height of this period, as many as 20 or 30 people, adults and children alike, would spend up to three months there. Although an element of reciprocity is undeniable, it would be a total misrepresentation to label these gatherings as Matthews’ way of paying off his accommodating cousins. It is clear from the correspondence that, as well as being a shrewd businessman, Matthews was very sociable and enjoyed the lively company as much as any of them. Even 75 years later, people who visited as children retained very happy memories of idyllic weeks spent “up at the ranch” (30).

For Matthews’ entrymen, their summer visits served a function in addition to the purely social aspects: time spent on their homestead land helped reinforce their claim to it. Under the 1862 Homestead Act, the settler had to erect a dwelling, live on his claim, and cultivate it for five years. Failure to meet these requirements might result in the claim being denied. By the turn of the 20th century, it appears that the residence requirement was not being strictly enforced. One “homesteader,” by his own calculation, spent less than nine months on his claim during the required five years (31). Yet the entryman had to show his face regularly on the claim or, on proving up, his right to a patent might be challenged by a neighbor who wanted the land for himself. Sometimes the mandatory cabin was erected by Matthews and sometimes by the entryman, who might use it on vacations. There is some indication that Matthews repeatedly used the same structure for this purpose, moving it from claim to claim as necessary; “so long as the house looks habitable,” it was good enough, or so wrote a correspondent (32).

Cultivation also seems to have been arranged by Matthews, often taking the form of a plowed alfalfa field, although one man requested that he plant some vines on his claim. These precautions were taken in part to satisfy the government land inspector, who would appear periodically to check up on homestead claims, causing no small anxiety to the “settlers.” To lessen the mandatory period of residence, Matthews sometimes used Spanish-American War veterans as entrymen, for these men were allowed to deduct their period of service from the required five years’ settlement. One penniless ex-serviceman agreed to take up a claim for the usual $100 fee on the
BEFORE WARM SPRINGS DAM

understanding that he would be allowed to live there and raise “a few chickens.”

Theoretically, nothing prevented the old veteran, or any other U.S. citizen, from filing a claim on his own behalf in the Dry Creek uplands. In practice, however, such an attempt would have met substantial obstacles. The Matthews correspondence has shed much light on the ways in which local ranchers controlled who filed on neighboring land. It is clear that these people were involved in a series of tightly woven networks bent on protecting the interests of their members, while as individuals they wished to maximize their own control over land. Consequently, while locals might act together to exclude nonresidents, they might—and frequently did—challenge each others’ claims and dispute their boundaries.

The locals’ advantages began with the most basic step in homesteading: locating the claim on the ground. At the turn of the century, most isolated and sparsely populated parts of California had not been accurately mapped. In most of these areas, the General Land Office plats, which depicted clusters of individual land claims and therefore did not cover entire townships, were the most complete maps available. As a result, a potential homesteader needed a good personal knowledge of the area in order to be sure of the physical location of his claim. To facilitate their own claims, local ranchers would undertake private surveys of unoccupied land, working out its legal description, in relation to township, range, and section, from fixed points established by previous government surveyors. A good degree of accuracy was essential for the homesteader, who otherwise might find himself the possessor of a barren hillside rather than the valley bottom that he believed he was filing on. Having had some training as a surveyor, George Matthews was particularly well placed to benefit from this situation.

A second way of preventing outsiders from successfully filing a claim was to deny them access to the land by excluding them from private property. In an area as rugged as the Dry Creek uplands, this would have been a very effective technique, for access to the interior was possible only along the ridgetop and creekside trail system, and it was along these trails that settlement was densest. In short, the would-be homesteader could be denied access by the action of any one of several neighbors. Although illegal by about 1900, when Dry Creek and Hot Springs roads became county property, there can be little doubt that this practice did occur at a slightly earlier time. An 1888 letter from Matthews’ mother, Eliza, who at that time was living “down” in Healdsburg, warned George that an “Old Buck” was going to take up a claim in an area held by the Matthews family. The “Old Buck” had been foolish enough to discuss his plans openly, and Eliza had soon got wind of it. She advised her son to close their gate and not let the man through (33).

Another way that local landholders might thwart the granting of a patent was to refuse to appear as a witness to the validity of the homestead claim when it came time to prove up. By law, four local residents were required to swear that the homesteader had spent the requisite amount of time living on and cultivating his claim. In such a sparsely settled area, the number of potential witnesses was relatively small, and, as a result, could become a factor in determining whose claims were approved and whose denied. Neighbors apparently cooperated as witnesses to each others’ claims and were cautious about witnessing for outsiders. Harry Cook, a neighbor and onetime Matthews foreman, made the following enquiry of him in 1914:

I got a letter from R.J. Williams asking me to be a witness for him on his homestead, no doubt you know of it, if not and you do not want it to go through let me know (34).

What Mr. Cook did not know was that R.J. Williams was one of Matthews’ own entrymen.

As a last resort, homestead claims were contested to the General Land Office on the basis that some requirement had not been met. Over the years, Matthews both contested others’ claims and had those of his entrymen challenged. On one occasion, “Old” Chris Tracy, a Spanish-American War veteran who had agreed to file a claim for Matthews under the usual conditions, backed out of his agreement; he then attempted to prove up, with the intention of selling to another person for a higher price. At this, Matthews had the claim contested by Harry Cook. Ironically, the rationalization given for the challenge was that Tracy had illegally entered into an agreement to sell the land as soon as it was his (35). Cook won the case, giving him the legal right to take up the claim himself!

In 1911 Matthews waged a defensive campaign against the Gater family, which was attempting to
obtain, under the provisions of the 1878 Timber and Stone Act, valuable acreage that Matthews considered his own. This law provided for the purchase, at $2.50 per acre, of public land that was unsuitable for cultivation but contained timber or stone resources. The Gaters’ position—that the rock in the creekbed was valuable as roadbed material, whereas the remainder of the land was practically useless—was found to have no merit. Once more Matthews, with the help of Jonathan Ackerman, a sharp land attorney, had been successful in defending his boundaries.

A discussion of land rights and practices in the West cannot conclude without some mention of claim jumping. A homestead claim was ripe to be jumped when, by not having been occupied for six months, it was legally considered to be abandoned and thus open for settlement by a new homesteader. Claim jumping was considered a particularly despicable practice. A letter from Eliza Matthews, dated October 1886, informed George that “There is a jumper on the Coyes place [he has taken over] his house and orchard and the best of his land.” In November, George’s brother Henry reported the surprising conclusion of this brief incident: “The jumper at the Coyes ranch has left, for some coves [i.e., men] I do not know took down his house and sold the lumber” (36).

**Corporate and Public Ownership**

The ascendency of relatively small, family-based ranches in the Lake Sonoma Area paralleled that of the price of wool; both peaked in the early 1880s. Ten years later, an economic downturn caused numerous mortgage foreclosures and forced the sale of many of these small and medium-sized enterprises. With rail transportation nearby, the area was attractive for large-scale commercial agriculture and ranching. The result was the creation of several very extensive, often corporately owned ranches out of what had been numerous family operations.

By the 20th century, legal title to the land became more important. When corporate investment became the dominant factor, only legally acknowledged rights were considered acceptable. Both the casual use of government land and customary possession became outmoded, and formal leasing of grazing rights to this acreage was adopted.

Beginning in 1967, the Corps of Engineers started purchasing title to the land in advance of constructing Warm Springs Dam. Although this step could scarcely be termed an invasion of yet another wave of settlers, we can view it from the same perspective as we have
earlier major ownership changes: this shift, like most of the others, was initiated and enforced by a group from the outside. In this case, all the private land in the study area was obtained by purchase, but the sales were mandatory. The alternative to a freely negotiated sale was for the land to be condemned by the government and then compulsorily purchased by the right of Eminent Domain at a price set by a Federal Court. The legitimacy of this kind of action is based on the principle that, in certain circumstances, the rights of a few may be overruled for the benefit of many.

CONCLUSION

This chapter has focused on two aspects of colonization and settlement—the concepts of the changing basis of land tenure and settlers’ ideological rationalizations. The shifting ideas of land tenure reflect how Lake Sonoma Area residents viewed and upheld their rights to the land. For analytical purposes, we can conceive of two systems as having been in operation. For want of better terms, they can be called “legal” and “moral,” based on the level of official recognition these arrangements received.

Pomoan groups viewed the land and its resources as community property. Although their custom was not written, it can nonetheless be viewed as a legal phenomenon, as it was recognized as the right way to behave by everyone in the political unit. Both the Spanish missionaries and Mexican rancheros also held their land with legal sanction, although not without some backstage political maneuvering. The Colonization Law provided the authority for settlement and defined citizens’ rights over the land or, in the case of the missionaries, over its inhabitants. The situation of the early American squatters, however, was not so clear cut. From the perspective of both the rancheros, whose land they requisitioned, and the federal government, which had agreed to protect the rights of earlier grant holders, the squatters’ actions were illegal. Their claims were only valid in the eyes of other squatters; thus their stance was morally sanctioned by a small group, while legally unacceptable to the remainder of society. Yet within this context, quasi-legal organizations evolved that effectively substituted for the more widely recognized legal system, although resembling the official system in structure, function, and powers of enforcement.

Even many legitimate settlers straddled the legally sanctioned system of tenure and a locally recognized system of moral rights. The practices of buying and selling possessory claims, and the customary division of government land among groups of contiguous neighbors who were also accumulating exclusive title to land, are good examples of the simultaneous operation of two different systems. The best documented local examples of this arrangement are the activities of rancher George Matthews, who was as competent dealing in the legal sphere as the moral, and who moved freely between them depending on the need of the moment. With the coming of corporate investment in the early 1900s and the eventual purchase of the area by the Corps of Engineers, land dealings were fully returned to the legal sphere for the first time since 1848.

It is clear that historic land-tenure systems have not followed a linear path toward greater structure. There is no reason to believe that land rights are more strictly recognized by modern residents than they were before the area’s native inhabitants had contact with Euroamericans.

Returning briefly to the role of ideology, we find that successive waves of newcomers have used essentially the same formula for rationalizing their takeovers. It consists of a disparaging view of the previous occupants and the attitude that they, the new settlers, are actually entitled to the land because they use more of its productive potential. This approach was applied to the area’s original inhabitants first by the Spanish missionaries and, without exception, by the peoples who followed them. It was the attitude of the early squatters toward the feudalistic rancho system, and what was later voiced in the county against the ranchers by landed interests who purchased the large tracts from the Mexican grantees. In the late 19th and early 20th centuries, the concepts of efficiency and cost-benefit entered the scene to subtly change the rationalization. On the authority of these ideas, family farms could be justifiably conglomerated to produce more efficient ranching units, and the worth of the upper Dry Creek Valley objectively measured both as agricultural land and as a site for a reservoir.
“No Trespassing” (photo by Adrian Praetzellis)
Archaeologists at work in the Lake Sonoma Area