


4-9-2018

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### Recommended Citation

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# MEXICAN-AMERICAN LAND TENURE CONFLICT IN CALIFORNIA

David Hornbeck

Annexation of a large portion of the Spanish borderlands by the United States in 1848 (fig. 1) and subsequent immigration into this area from the United States initiated considerable landscape change.<sup>1</sup> The Mexican landscape, organized according to centuries of Spanish tradition, was the antithesis of the type established by the westward moving American pioneer. Spatial differences were many, particularly in the areas of agriculture, settlement, transportation, space economy, and land tenure. Although contact between Anglo and Mexican had many points of conflict, none was as important to the settlement process as the ensuing difference between American and Mexican land tenure systems. During the last half of the nineteenth century the land tenure situation throughout the Spanish borderlands was in a state of confusion and disorder, particularly in California.<sup>2</sup> In effect, two very different concepts of land acquisition, organization, and maintenance clashed, resulting in a distinctive settlement pattern not usually associated with Anglo settlement.

This paper examines the merging of these two contrasting land tenure systems in California and illustrates the spatial consequences in both rural and urban areas. To place Anglo-Mexican contact and the resultant land tenure conflict in context, it is necessary to review briefly the basis of each land tenure system at the time of

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<sup>1</sup>For a discussion of specific changes see Mary Tucey and David Hornbeck, "Anglo Immigration and the Hispanic Town: A Study of Urban Change in Monterey, California, 1835-1850," *Rocky Mountain Social Science Journal*, April 1976. Other landscape changes are discussed in Victor Westphall, *The Public Domain in New Mexico, 1854-1891* (Albuquerque: University of New Mexico Press, 1965); Carolyn Zeleny, "Relations between the Spanish-Americans and Anglo-Americans in New Mexico: A Study of Conflict and Accommodations in a Dual-Ethnic Relationship," (Ph.D. diss., Yale University, 1904); and William Parish, *Charles Ilfeld: A Study of the Rise and Decline of Mercantile Capitalism in New Mexico* (Cambridge: Harvard University Press, 1961).

<sup>2</sup>For California see Paul W. Gates, "Adjudication of Spanish-Mexican Land Claims in California," *Huntington Quarterly* 3 (May 1958): 213-36 and W. W. Robinson, *Land in California* (Berkeley: University of California Press, 1948). For New Mexico Territory see George Julian, "Land-stealing in New Mexico," *North American Review* (1887): 145-51; Herbert Brayer, "The Place of Land in Southwestern History," *Land Policy Review* 10 (1943): 18-22; and Myra Ellen Jenkins, "The Baltazar Baca Grant: History of an Encroachment," *El Palacio* 61 (1961): 47-64.

annexation and the attempts by the United States government to harmonize differences.

### MEXICAN AND AMERICAN LAND TENURE SYSTEMS

Mexico had gained its independence in 1821 and as a fledgling nation was more concerned with economic and fiscal problems than with developing and enforcing land regulations in its northern territories. At the time the United States assumed control of these areas, the land tenure regulations reflected not only those of the Mexican government but also traditions developed during 300 years of Spanish



Figure 1

settlement in the New World. Spanish land policies were not easily discarded and with some alterations continued in force after 1821.<sup>3</sup> Most alterations by the Mexican government, however, were concerned primarily with stimulating settlement in its northern territories.

To encourage settlement, the Mexican government offered large tracts of land to potential settlers under the colonization laws of 19 August 1824 and 21 November 1828.<sup>4</sup> These laws provided for the acquisition of land by Mexican citizens and foreigners. Individual grants could not exceed 11 square leagues (approximately 47,000 acres), which were to be allocated according to specific types of land: one league irrigable, four leagues dry farming, and six leagues pasture. The grantee also had to meet specific cultivation and residence requirements, as well as insure a proper survey.<sup>5</sup> Also, no individual grant could be located within ten leagues (approximately 25 miles) of the sea or within 20 leagues (approximately 50 miles) of a foreign border without approval of the Mexican Congress.<sup>6</sup> Pueblos, or community grants, were allowed four square leagues of land. Of these, community members were allowed 2,300 varas (approximately 11 acres), to be apportioned according to various uses<sup>7</sup> (fig. 2).

Although definite regulations were established governing the amount and type of land available and the manner of acquisition, in practice the system was organized loosely and formalities were seldom adhered to, especially in California. Grants ranged from small parcels to large tracts which often exceeded the maximum 11-league requirement.<sup>8</sup> Locational requirements were seldom, if ever,

<sup>3</sup>George M. McBride, *The Land Systems of Mexico*, American Geographical Society Research Series, No. 12 (Washington, D.C., 1923); Matthew Givens Reynolds, *Spanish and Mexican Land Laws in New Spain and Mexico* (St. Louis: Buxton and Skinner, 1805); John A. Rockwell, *A Compilation of Spanish and Mexican Law, in Relation to Monies and Titles to Real Estate in Force in California, Texas and New Mexico and in the Territories under the Louisiana and Florida Treaties when Annexed to the United States* (New York: John S. Voorhies, Law Bookseller and Publisher, 1851); and William W. Morrow, *Spanish and Mexican Private Land Grants* (San Francisco: Bancraft-Whitney Co., 1923).

<sup>4</sup>Rockwell, *Compilation of Spanish and Mexican Law*, p. 236.

<sup>5</sup>A league contained 4,338.19 acres, measured according to 32.99206 inches to a vara. See Jacob N. Bowman, "Weights and Measures of Provincial California," *California Historical Society Quarterly* 30 (December 1951): 315-38.

<sup>6</sup>For a discussion of specific requirements see H. W. Halleck, *Report on California Land Claims*. House Executive Document No. 17, 31st Cong., 1st sess., 1850, pp. 3-8 and William Cary Jones, *Report on Land Titles in California*, Senate Executive Document No. 17, 31st Cong., 157th Sess., 1850, pp. 2-5.

<sup>7</sup>A vara was measured variously from 32.99206 to 33.372 inches. See Bowman, "Weights and Measures."

<sup>8</sup>Statistical data for each land grant may be obtained from California Surveyor General, *Corrected Report of Spanish and Mexican Grant in California, Complete to February 25, 1886* (Sacramento: State of California, 1886) and Ogden Hoffman, *Report of Land Claims Determined in the United States District of California* (San Francisco, 1862).

Land tenure procedures were loose, to say the least, and conformed more to local customs than to laws established by the Mexican government.

In effect, the informal land tenure methods practiced in California and elsewhere in the Spanish borderlands were not conducive to a uniform settlement pattern. The landscape took on an uneven pattern governed more by physical features than precise survey boundaries.

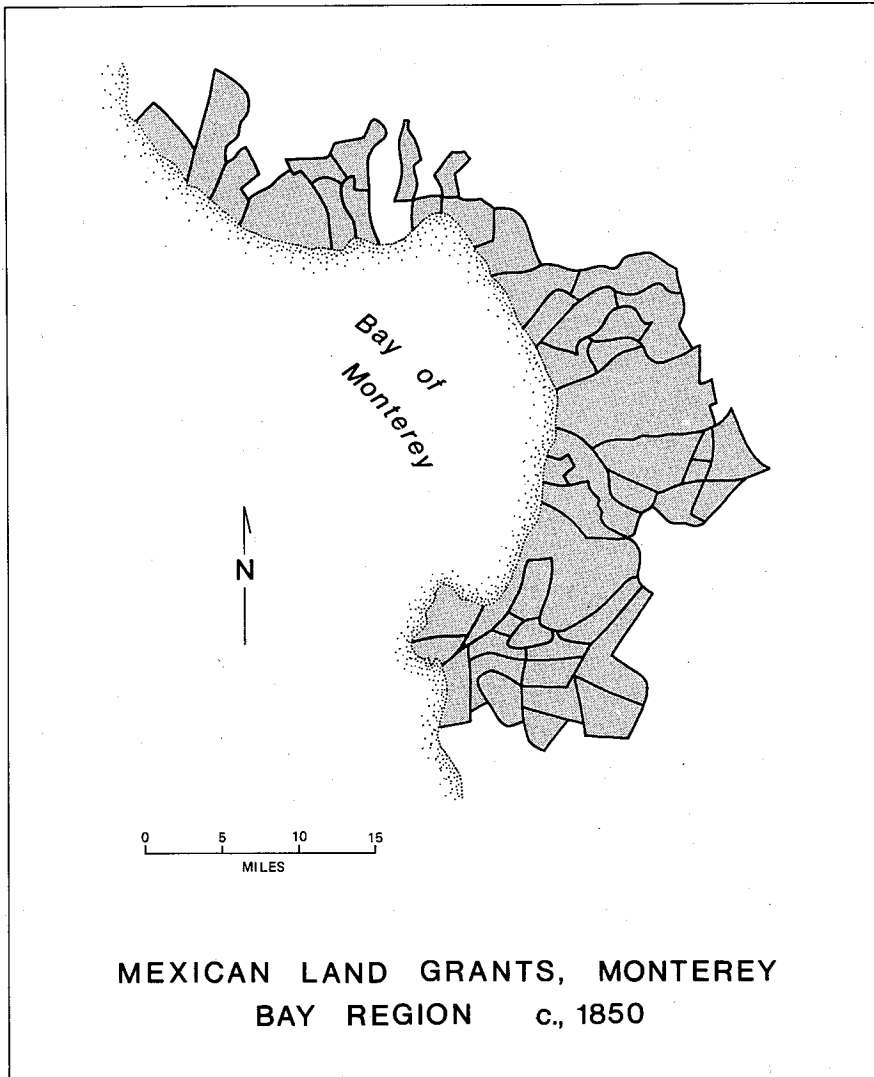
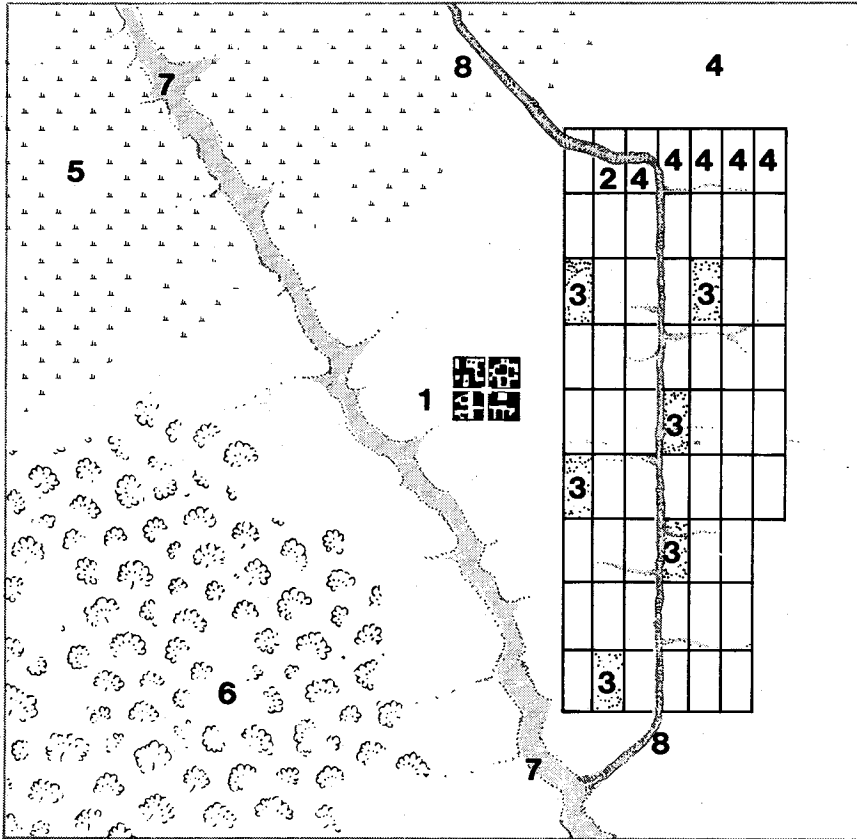


Figure 3

adhered to. For example, grants in the Monterey Bay area illustrate the relaxed attitude toward complying with official land laws (fig. 3). Grants located within ten leagues of the sea were not restricted to the Monterey Bay region but extended all along the California coast (fig. 4). Survey requirements were seldom met; consequently, boundaries were not fixed securely.<sup>9</sup> The metes and bounds method was used to establish boundaries of the few grants which were surveyed.



- |                        |                     |
|------------------------|---------------------|
| 1. Town                | 5. Common pasture   |
| 2. Public land         | 6. Common woodland  |
| 3. Agricultural land   | 7. River            |
| 4. Unappropriated land | 8. Irrigation canal |

Source: Blackmar, *Spanish Colonization in the Southwest, 1890.*

Fig. 2. An Ideal Pueblo Grant

<sup>9</sup>Geoffrey P. Mawn, "Agrimenso y Arquitecto: Jasper O'Farrell's Surveying in Mexican California," *Southern California Quarterly* 56, no. 1 (Spring 1974): 1-12.

In contrast to the Mexican system, the United States land tenure scheme emphasized small private holdings with accurately surveyed boundaries.<sup>10</sup> The system was based on an orderly arrangement of rectangular surveys along with a township system which featured a systematic division of land into sections of 640 acres

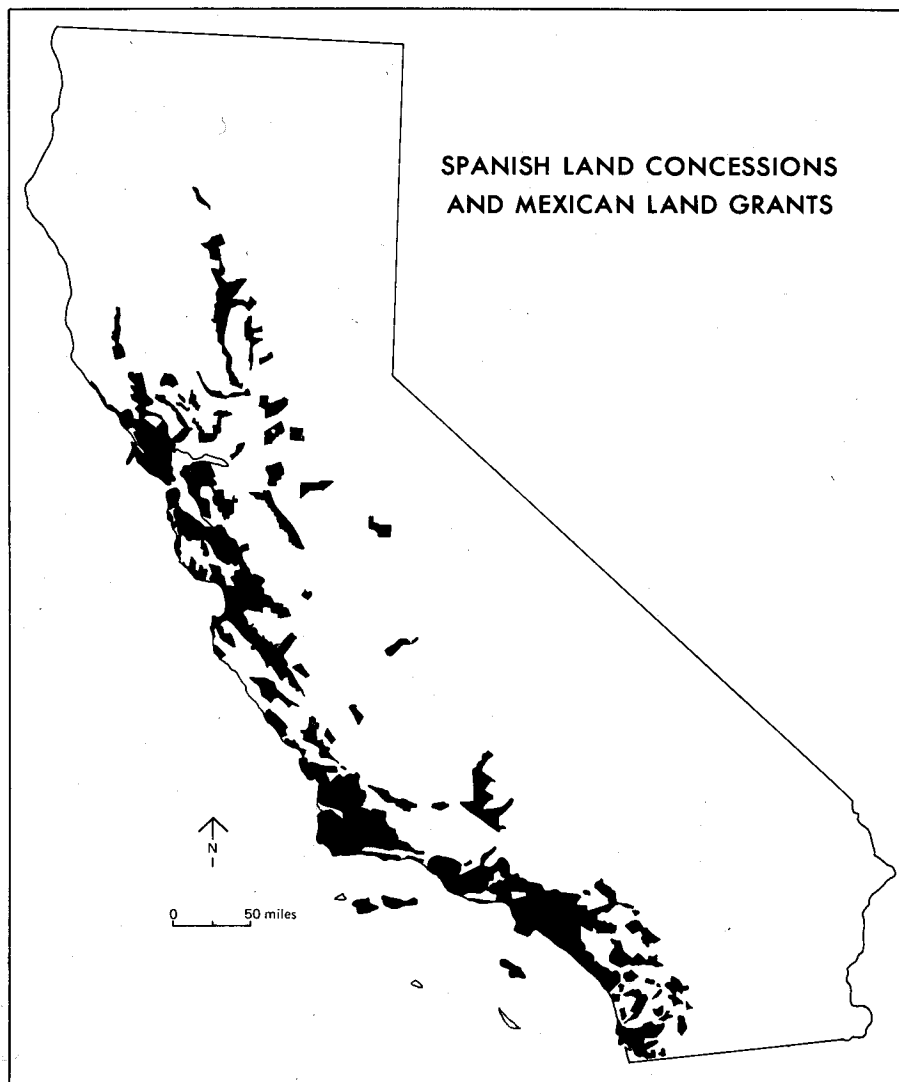


Figure 4

<sup>10</sup>Thomas Donaldson, *The Public Domain, Its History* (Washington, D.C.: Government Printing Office, 1884) and Marion Clawson, *The Land System of the United States* (Lincoln, Nebr.: University of Nebraska Press, 1961). For a geographic interpretation of the United States land tenure system see William Pattison, *Beginnings of the American Rectangular Land Survey System, 1784-1800*, University of Chicago, Department of Geographic Research Paper No. 50 (Chicago, 1957).

each (fig. 5). When applied regionally, this system provided for a layout of parallel and contiguous tiers of townships which imparted a checkerboard pattern to the landscape.

Within this system, land passed from public domain to individual ownership through various laws which regulated the price, type, and amount of land each individual was allowed to obtain.<sup>11</sup> For example, a settler could obtain land under the Pre-emption Act, Homestead Act, Desert Land Act, or various other acts. An astute settler could acquire up to 1,120 acres by careful manipulation of the law. Since precise boundaries were an important feature of the United States land tenure laws, legal documents relating to land transactions were maintained in an accessible place. The United States system provided for a uniform settlement pattern which varied little from place to place.

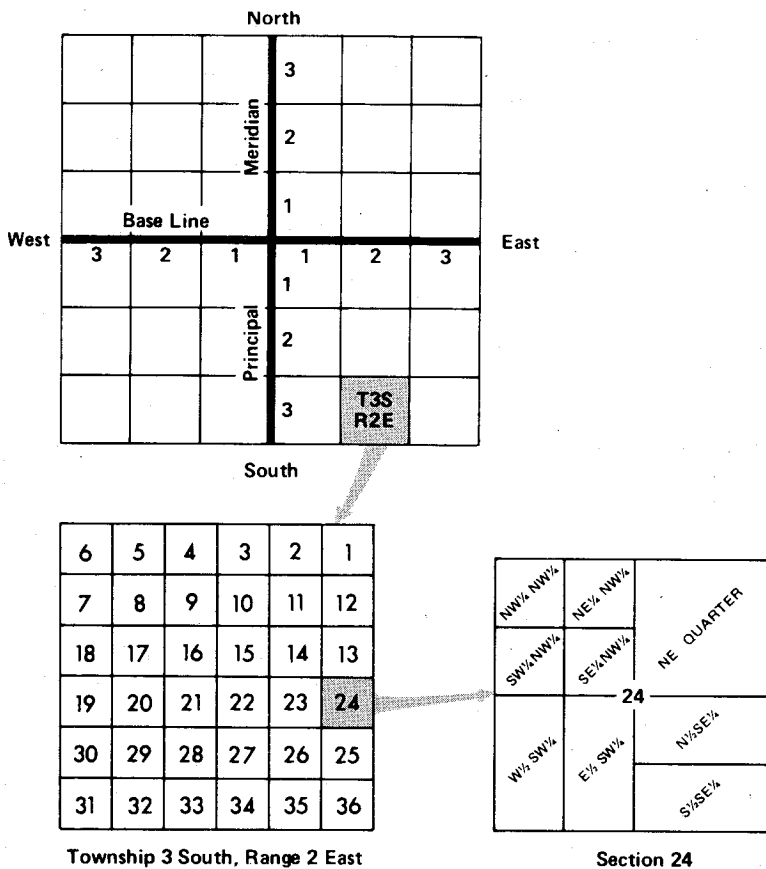


Fig. 5. U.S. Rectangular Land Survey System

<sup>11</sup>For a discussion of various land policies see B. Hibbard, *A History of the Public Land Policies* (New York: Peter Smith, 1939) and F. J. Marschner, *Land Use and Its Patterns in the United State*, Department of Agriculture Agricultural Handbook No. 153 (Washington, D.C.: Government Printing Office, 1959), pp. 1-23.



extended to five) to decide the validity of titles claimed under Spanish or Mexican authority.<sup>15</sup> The act specified that

persons claiming lands in California by virtue of any right or title derived from the Spanish or Mexican government, shall present the same to the said commissioner . . . together with such documentary evidence and testimony of witnesses . . . to support such claims.<sup>16</sup>

In addition, the United States government appointed a district attorney to attend to its interest. Both government and claimants had the right to appeal the commissioner's decision to the district court and, if necessary, to the United States Supreme Court. Claims with rejected titles were to be placed in the public domain and opened to settlement. Land confirmed to the claimants was to be patented by the United States government upon proof to the General Land Office that an officially approved survey had been completed.

Although the California Land Act attempted to resolve the issue, it did not provide an immediate solution to the problem. Not only were the commissioners under heavy pressure to resolve the problem quickly, but they were deluged with 813 claims. Patents were finally issued on 514 titles.<sup>17</sup> Surveys were time-consuming, and their validity was frequently challenged in court, which lengthened the adjudication process. Rather than producing a quick solution, adjudication kept land claims in the courts well into the 1880s. Meanwhile, the areas before the courts were held out of the public domain, and claimants were allowed use of the land. In effect, the policy pursued by the government created two title conditions, confirmed and unconfirmed, and perpetuated the confusion as to which lands were available for settlement.

To overcome the problem of unconfirmed titles, the State Legislature passed the Personal Property Act in 1856.<sup>18</sup> This act placed all disputed lands in California within the public domain until patents were issued. The State Supreme Court declared the act unconstitutional in 1858.<sup>19</sup> By this time, however, it was too late to nullify its effects. Settlers acting in good faith staked out claims on lands up before the courts; much dissension resulted if the claimant was given legal title. The Personal Property Act, although intended to help alleviate the problem, added even more confusion to an already aggravated situation.

The solutions attempted hardly facilitated a rapid merging of the two land tenure systems. The areal effects of Mexican land laws

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<sup>15</sup>Robinson, *Land in California*, p. 100.

<sup>16</sup>*United States Statutes at Large*, vol. 9, p. 631.

<sup>17</sup>Theodore H. Hittell, *History of California*, vol. 3 (San Francisco, 1898), p. 695.

<sup>18</sup>*California Statutes*, 1956, pp. 54-57.

<sup>19</sup>*Billings v. Hall*, vol. 7, California, pp. 1-18.

## AMERICAN-MEXICAN LAND TENURE CONFLICTS

Land problems began soon after annexation of the area ceded to the United States by the Mexican government.<sup>12</sup> Within this newly acquired territory, California was the first area to experience pressure of two opposing land tenure systems. The rapid influx of miners and settlers, accustomed to a system completely different from that employed by the Mexican government, brought the two into immediate conflict. American frontiersmen familiar with the United States tenure scheme looked upon the undeveloped, unfenced, and uncultivated land in California as part of the public domain and therefore subject to settlement as in previous frontier areas. Instead of public domain, they found most of the good agricultural land along the coast under private ownership.

In contrast to the familiar small holdings, the potential settler in California found thousands of acres of unfenced land delimited by vague boundaries claimed by a few individuals or communities under an alien and seemingly chaotic land tenure system. Almost immediately, the United States government faced the problem of harmonizing its precisely defined land regulations with the less precise Mexican system. Articles 8 and 9 of the Treaty of Guadalupe Hidalgo guaranteed full and complete protection of Mexican property rights in the areas ceded to the United States.<sup>13</sup> The United States, therefore, could do little more than attempt to establish the validity of Mexican titles while at the same time provide for the identification and disposition of the public domain.

### ADJUDICATION AS A MEANS OF INTEGRATING MEXICAN-AMERICAN LAND TENURE SYSTEMS

Confronted with the problem of integrating two contrasting systems into a coordinated land tenure scheme, the United States government turned to adjudication in the courts. The State of California also attempted to deal with the problem by passing legislation but was quickly overruled. The primary difficulty encountered by the United States was establishing as accurately as possible which lands belonged to Mexican citizens. To resolve the issue, Congress, after much debate, passed the Act To Ascertain and Settle the Private Land Claims in the State of California in 1851.<sup>14</sup>

This act, commonly called the California Land Act of 1851, created a board of three commissioners for a period of three years (later

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<sup>12</sup>John Ellison, *California and the Nation, 1850-1889*, University of California Publications in History, vol. 16 (1927), pp. 8-10.

<sup>13</sup>*United States Statutes at Large*, vol. 9, p. 922.

<sup>14</sup>A detailed discussion of this act can be found in Paul Gates, "The California Land Act of 1851," *California Historical Quarterly* 50 (December 1971): 395-430. The act may be found in *United States Statutes at Large*, vol. 9, pp. 630-33.

continued to hinder Anglo attempts to settle and occupy California. Cleland commented on the effects of the California Land Act of 1851:

Whatever may have been the intention of the sponsors of [land legislation] its enforcement brought to fruition all of the evils which its [opponents] warned, it penalized legitimate land owners, often to the point of ruin; played into the hands of speculators; discouraged settlement and immigrations; . . . and by creating a resentful and disaffected landless element, served to produce a large measure of instability.<sup>20</sup>

The United States, bound by the Treaty of Gaudalupe Hidalgo, could hardly erase the results of Mexican occupance without upsetting the entire economic and settlement structure of California. Yet the Anglo concept of spatial organization was not compatible with conditions encountered in California. In the end, the two were merged by accepting valid Mexican titles where they existed and applying the rectangular land survey where they did not.

### SPATIAL CONSEQUENCES

Excluding valid Mexican landholdings from the public domain created an erratic settlement pattern in the Hispanic areas of California. An example of this distinctive spatial design is found in the northern part of Monterey County. As illustrated in figure 6, the overall pattern reflected a mosaic arrangement of large areas containing irregular property lines interspersed with smaller areas containing uniform property lines. Within each Mexican grant parcel boundaries were asymmetrical, with property lines ending abruptly at the grant's boundary. Grant boundaries, as interpreted and surveyed by the United States General Land Office, in some respects served to shape the size and overall configuration of the land ownership pattern. The recognition of valid Mexican land titles had the effect of making each grant a "container" of many small, uneven, and somewhat irregular landholdings. In contrast, lands lying outside Mexican grants were considered public domain and treated accordingly.

The effects of merging both Mexican and American land tenure systems, although not as persistent nor striking as in rural areas, are also evident in numerous urban centers. Many cities within the Hispanic settled areas of California had substantial segments of their spatial layout influenced by grant boundaries.<sup>21</sup> Of the four types which can be identified (fig. 7), the most easily distinguishable is street disruption (fig. 7a). Here, grant boundaries served not only to distinguish property holdings but also to limit a developer's area of influence. In effect, boundaries became a terminating point for a

<sup>20</sup>Robert Glass Cleland, *Cattle on a Thousand Hills: Southern California, 1850-1888* (San Marino: California Huntington Library, 1951), p. 70.

<sup>21</sup>For a detailed account of the Los Angeles area see Howard Nelson et al., "Remnants of the Ranchos in the Urban Pattern of the Los Angeles Area," *California Geographer* 5 (1964): 1-9.

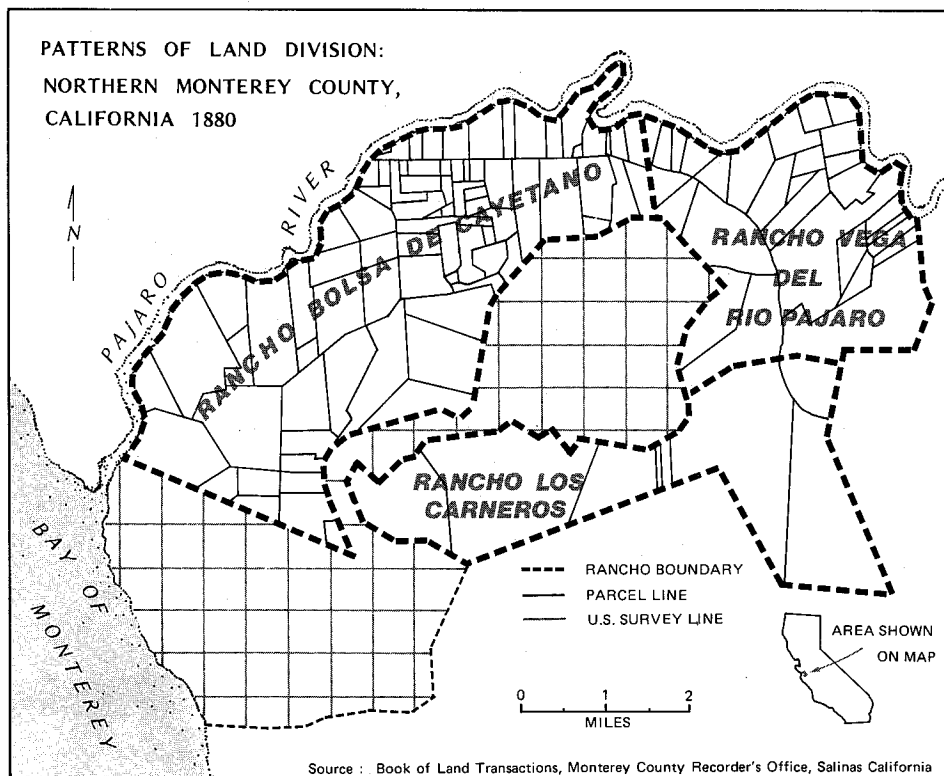


Figure 6

specific street pattern. In some instances grant boundaries not only acted to disrupt street patterns but also served as a convenient separation point between political units as in the case of Monterey and Pacific Grove, for example, where both had points of origin on different grants (fig. 7b). Less noticeable but still important is the coincidence of grant boundaries and major traffic arteries (fig. 7c). Occasionally roads developed between property holdings and, with subsequent urbanization, many eventually became important transit routes within the city. Often, grant boundaries did not coincide precisely with street alignment but clearly influenced the general street pattern (fig. 7d). The maintenance and separate ownership of large tracts of land according to Spanish-Mexican grants within cities had a similar effect as in the rural areas—an irregular and somewhat uneven pattern on the landscape.

Spatial consequences of merging American and Mexican land tenure systems went far beyond the simple patterns depicted in figures 6 and 7. The impact of Anglo migration resulted in significant landscape change throughout the Hispanic settled areas of California. However, attempts to restructure the Hispanic landscape hinged on the successful merging of the two land tenure systems. Inexperience in dealing with a large area settled under an alien land

tenure system and the lack of formal frontier institutions capable of handling the problem quickly and efficiently hampered all phases of Anglo settlement in these areas well into the 1880s. Unlike other regions of California, the Hispanic settled areas were subjected to a considerable measure of instability and delayed economic growth until the central question of who owned the land was settled.

**CONCLUSION**

The transfer of Mexico's northern territories to the United States suddenly thrust the area into direct contact with a radically different set of social and economic characteristics of which land was the

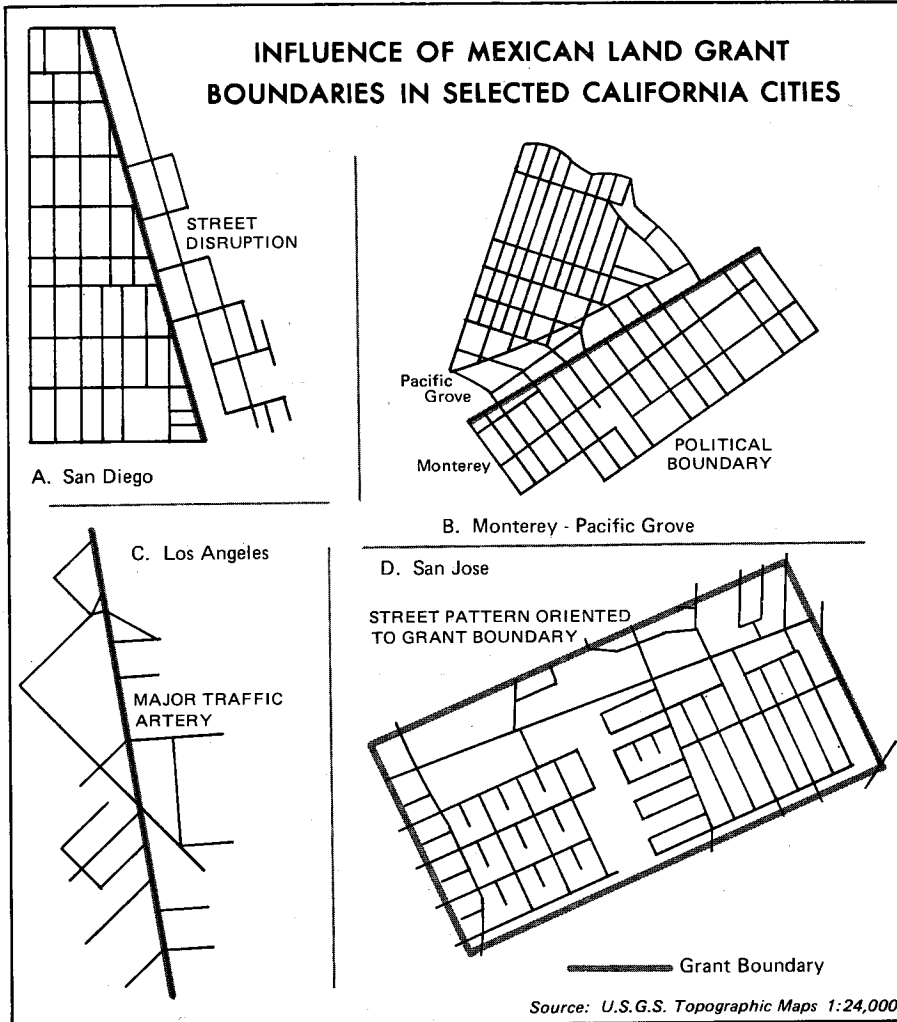


Figure 7

central point of conflict. Attempts to combine Mexican-American land tenure systems in California resulted in a disruptive settlement process during the first 30 years of Anglo occupance. Merging the two by adjudication in the courts did little to facilitate solving the problem immediately, but instead intensified an already confusing and difficult situation. The United States' adoption of previous Mexican land grant boundaries for purposes of legal land description proved to be an important variation to the usual settlement procedure employed previously in other frontier areas, resulting in a distinctive landscape pattern in both the rural and urban areas of California.

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#### **BICENTENNIAL ISSUE OF THE JOURNAL OF GEOGRAPHY**

Response to the January 1976 Bicentennial Issue of THE JOURNAL OF GEOGRAPHY has been highly complementary. A number of teachers have indicated that they are using the issue as required reading in their geography classes. The articles contained are "Evolution of America's World Posture: Perception and Reality" by John P. Augelli, "Resource, the Environment, and the American Experience" by William L. Graf, "Cities and the Shaping of the American Nation" by James E. Vance, Jr., and "Land Speculation and Other Processes in American Historical Geography" by Donald G. Holtgrieve.

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