

Peninsula Diary Mayo Hayes O'Donnell

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A Skull, A Spring, A Tree

Surveys made during the early Mexican rule in California were at best only rough and ready makeshifts, and in later years their inaccuracies proved the source of endless controversy and led to an immense amount of litigation, according to Dr. Robert G. Cleland's account in "The Irvine Ranch," a review of which we began yesterday.

Corner posts on a grant were sometimes branded with the owner's iron, or cattle mark; often, however, the most convenient landmarks – a steer's skull fixed to a bush, a clump of cactus, a few notches in a tree trunk, the crossing of two roads, a mound at the entrance to a coyote's den, the edge of a dry barranca (glen or gulch) a brush ramada on the banks of a stream, a spring of running water – were used to mark the boundary lines.

With the passage of the years, such landmarks usually disappeared or became almost impossible to locate and identify, thus adding another source of confusion to the already muddled state of California land titles. Even now, after the lapse of nearly one hundred years, Dr. Cleland states that the boundary lines of the few old Spanish-Mexican grants are occasionally before the courts for adjustment.

The validity of a grant depended upon the fulfillment of certain simple conditions, such as building a house, stocking the land with cattle, and planting a few fruit or shade trees along the boundary lines. Dr. Cleland says in his book that if the stipulated requirements were not met, the grant could be legally annulled and the land thrown open again for denouncement or preemption. Instances of such forfeiture, however, were extremely rare.

At the time of the American conquest of California in 1846, all but a small remnant of the once vast mission holdings and large additional areas of the public domain were in the hands of private owners and the rancho system dominated every phase of provincial life.

Under the Treaty of Guadalupe Hidalgo, the United States government pledged itself to protect the native Californians in the free enjoyment of their liberty, property and religion, and to give recognition to "legitimate titles to every description of property, personal and real, in the ceded territory."

In making this pledge to the Californians, Dr. Cleland explains, the United States acted in honesty and good faith, but because of the social and economic bedlam created by the Gold Rush, a complex situation developed in California which Congress, far off and ill-informed, did not fully appreciate or adequately meet.

The question of land ownership in California offered the American government a particularly difficult and involved problem.

Owing to lost or defective documents, haphazard surveys, poorly defined boundaries, and unsatisfied requirements, the titles to many grants were technically imperfect and legally subject to forfeiture, even under Mexican law. The grants, too, were of many kinds and descriptions. Among them, according to Dr. Cleland, were "Mission lands, pueblo lands, private lands and public lands; titles technically complete and titles technically faulty; titles granted in good faith and titles granted solely to anticipate American annexation; titles free from any shadow of suspicion and titles obtained through obvious fraud."

On March 3, 1851, Congress passed a bill sponsored by William M. Gwin, one of the newly appointed senators from California and professed champion of the settlers' cause, which provided for a board of three commissioners to ascertain and settle the private land claims in California. Under penalty of forfeiture, all California titles held under Spanish or Mexican grants were to be submitted to this board of adjudication within two years, but the decision of the board could be appealed either by the claimant or by the government to the federal courts. The board was formally organized in San Francisco on December 3, 1851.