

Confrontation

at Mussel Slough

1880

13

Popular folklore and many scholarly histories agree that the Central Valley land war that emerged between the railroad and settlers was a pivotal event, a battle symbolic of that era's larger conflicts between ordinary citizens and emerging corporate power. In exchange for construction of a southern trans-continental rail line through the area, Congress had granted considerable Central Valley land to the Southern Pacific Railroad, one company controlled by the near transportation monopoly assembled by the owners of the Central Pacific Railroad. Some settlers of the Mussel Slough district of the Tulare Basin, however, contended that the grant was illegal. They challenged the railroad's title and moved onto the land without permission. A decade of conflict ensued, culminating in the famous gun battle at Mussel Slough on May 11, 1880.

Into the twenty-first century, historians and popular writers have generally relied on local legend and secondhand accounts to side with the settlers against the Southern Pacific. For many students of California history, the settlers' contest with the railroad epitomized the corruption of big business in the industrial era, and the struggle between private greed and public good. On the other hand, primary evidence—original letters, railroad records, public documents, and contemporary newspapers—reveals a far more complicated story, one in which guilt and innocence are difficult to assess. The drama at Mussel Slough is more than a struggle between “good” and “evil,” “the people” versus “big business.” The events that unfolded around the Tragedy Oak are part of a larger saga of sweeping economic, social, and environmental change, the complex interplay between dreams of success and personal failure, and the bewildering conflicts that followed the rails into late-nineteenth-century California.



On the bright morning of May 11, 1880, U.S. Marshal Alonzo W. Poole climbed into a buggy and headed away from Hanford, a small town in what was then Tulare County. His companion was railroad land-grader William H. Clark. As the men rode north through the unpaved streets of the village and through the flat fields beyond, Poole could see that a dry spell hung over Mussel Slough. Winter rains had not come. Roadside weeds shriveled in the dust, irrigation ditches ran dry, and thin clumps of sun-burned grain baked in the fields. Poole detested his orders. After years of struggle over Southern Pacific Railroad land-grant titles, a federal court had decided that squatters were illegally occupying the company's land. Marshal Poole was charged with evicting them, while Clark was to identify the tracts. Like many Californians, Poole sided with the squatters, some of whom were old friends. But he was determined to do his duty.

Armed with light revolvers, Poole and Clark were headed five miles northwest toward the tracts of land that Mills Hartt and Walter Crow had purchased from the railroad two years earlier. Along the way, Poole and Clark met up with a wagon carrying Hartt and Crow, and the men drove on together. Hartt and Crow had packed pistols, rifles, and shotguns under their wagon seat.

As soon as Poole had left town, riders from the Settler's Grand League's "militia" had set out to alert John Storer that the marshal was on his way. Storer and Henry Brewer were squatting on Crow's land. The disputed lot was an unfenced, 320-acre wheat field that Brewer and Storer had been cultivating for several years. As was typical in Mussel Slough, the disputed parcel was adjacent to their valid claim on non-railroad land—an 80-acre homestead on which Brewer had built a house and barn. Storer intercepted Poole and Clark on the road and the men stopped and spoke quietly. Crow repeated his offer to sell the land to Storer and Brewer. Storer agreed to repeat the offer to Brewer and the men continued together.

The party reached the property around 10:30 AM, and found Brewer plowing the field. Just as Storer rode ahead to confer with Brewer, 40 or 50 men with rifles rode onto the land and halted 50 yards away. Crow and Hartt reached for their firearms, but the marshal cautioned against it. "I think I had better go and meet them," Poole muttered, and he jumped down and strode towards the riders.



As much as any other region of post-gold-rush California, residents of Mussel Slough experienced the railway era's contradictions and conflicts. The slough occupied the west side of Tulare Basin, a natural sink in the central San Joaquin Valley. Snow-fed streams like Kings River and Mussel Slough, one of its branches, meandered westward from the Sierra Nevada and finally emptied into Tulare Lake. Fertile soils, gentle slopes, and abundant surface and groundwater gave the basin unusual agricultural promise. Yet, lacking transportation, the Mussel Slough country, like most of California, was virtually undeveloped as late as 1870. During the gold rush, the eastern basin, with more rainfall and nearer mining markets, had become one of California's first thriving agricultural and cattle-raising areas. Visalia, hub of the region's economy and seat of Tulare County after 1852, quickly grew into the largest valley town south of Stockton. Twenty miles westward, however, the air was dry and the settlers few.

The country began to change in 1869, when the Southern Pacific Railroad Company started laying rails south from San José. Enticed by a Congressional land grant, the company intended to run the line south-eastward across the Coast Range, through the Mussel Slough basin, down the San Joaquin Valley to Southern California, and east across the desert to the Colorado River. A few months after it began, however, construction stopped at Tres Piños, south of Hollister, where rugged mountains blocked access to the Tulare Basin. Determined to tap valley's rich agricultural potential, the company's new owners, the famous "Big Four"—Leland Stanford, Collis P. Huntington, Charles Crocker, and Mark Hopkins—decided instead to extend a branch of their completed railway, the Central Pacific, southward into the San Joaquin Valley.

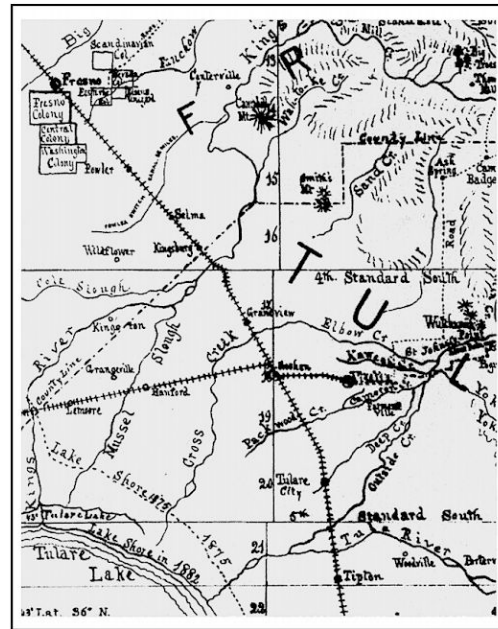
Lacking a federal land grant for their Central Pacific branch line, the Big Four asked Visalia and Tulare County to provide a cash subsidy and right-of-way through the town, which lay east of the best route down the valley. This was a common way to encourage railway construction nationwide, but the subsidy demand provoked disagreement. Residents of Visalia approved the plan, which would promote the town and improve their businesses. Stage and wagon companies objected vociferously, fearing railroad competition. Settlements left off the projected rail line also objected, as did cattlemen who feared an invasion of farmers on their open ranges. From the beginning,

Tulare County was divided between pro- and anti-railroad factions.

In 1870 anti-railroad Governor Henry H. Haught vetoed legislation that would have allowed San Joaquin Valley counties to subsidize railroad construction. The Central Pacific decided to avoid the existing settlements, bypass Visalia, and to build the cheapest, most direct route through the valley's uninhabited central lowlands. Crews completed the Central Pacific branch line to Goshen, west of Visalia, in 1872, where it joined the as-yet unbuilt Southern Pacific route through Mussel Slough country. An independent railroad linked Visalia to the Southern Pacific line at Goshen two years later, but many valley residents still resented the company. Then in 1872, the Southern Pacific Railroad, now under its own corporate name, resumed construction of its main line on its route southward from Goshen to Los Angeles (reached in 1876) and a transcontinental connection in Texas (in 1881).

Racing to acquire as much of its federal land grant as possible before the 1878 deadline stipulated by Congress, the Southern Pacific in 1877 completed a spur line along its approved route west of Goshen through the Mussel Slough country. New rail towns sprang up at Hanford, Lemoore, and Huron. Construction halted at Huron in 1877, at the eastern edge of the rugged coastal mountains, however, and the gap in the line was never closed.

Even before the railroad built through it, business in Mussel Slough country had quickened. Crops could now be hauled by wagon the short distance east to Goshen and other railheads on the Central/Southern Pacific main line, creating new markets and spurring new development. Settlers poured into the district. Unoccupied and open grazing lands were subdivided and shifted to hay, grains and, where water was available, fruit and specialty crops. During the early 1870s, sloping land and abundant flowing water convinced some more well-to-do landowners to form mutual companies to dig irrigation canals from the Kings River and Mussel Slough. Ditches supplied water to more than 60,000 acres by 1879, and Mussel Slough had developed into one of California's first intensively cultivated and irrigated small-farm regions. Newly irrigated farms specialized in corn, alfalfa, and, increasingly, vegetables, deciduous fruits, and dairy cattle. Unirrigated farms were limited to less profitable dry-farming of grain, hay, and a few other crops. Tulare County's population increased nearly 150 percent in the ten years after 1870, from 4,500 to 11,300—three times the state's slow rate of growth—with most of the development around Mussel Slough.

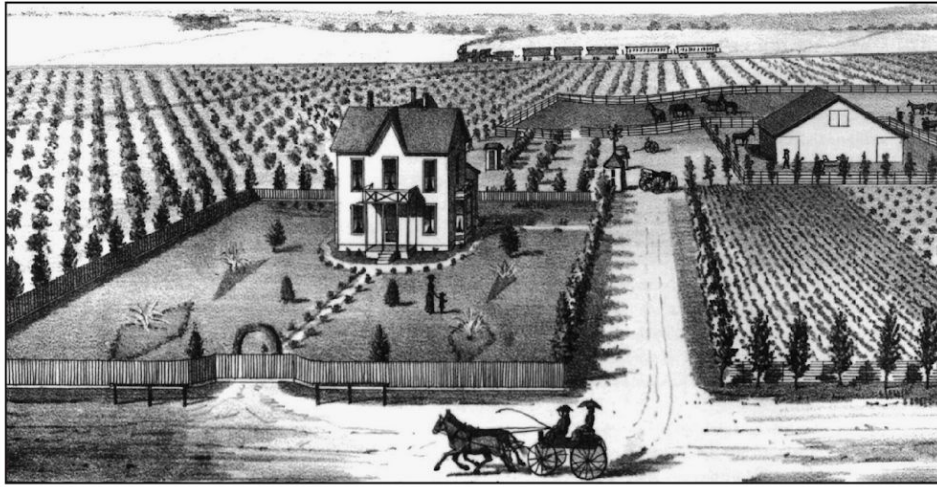


The Mussel Slough of Tulare and Fresno Counties in 1883

This contemporary map illustrates the major features of Mussel Slough geography in the late-nineteenth century, as well as the location of the Central/Southern Pacific's main north-south rail line bisecting the valley. Tulare Lake now has nearly vanished, its former bottom drained and covered with large corporate farms. *Courtesy of the California History Room, California State Library, Sacramento, California.*

Population growth and exploding agriculture transformed the countryside. At midcentury, the federal government had surveyed the San Joaquin Valley into the traditional gridiron of sections, each one square mile, or 640 acres, and offered them for purchase. Before the railroad, most public land in the Mussel Slough area was unsold. As the railroad approached in the early 1870s, hundreds of buyers and homesteaders converged on the Tulare Basin, many of them small-scale speculators who claimed the land in expectation of price increases. Competition for good locations was keen, and furious trading drove prices for unimproved farmland from \$1 to \$2 per acre in 1870 to \$10 to \$20 per acre by 1880.

The scramble for land put newcomers on a collision course with the Southern Pacific even before railroad



A Mussel Slough Farm, 1883

The farm fields, orchards, and house gardens made possible by irrigation and railway development along Mussel Slough are clear in this contemporary woodcut from an early county history. Typical of illustrations in nineteenth-century histories and promotional tracts, a train—a mechanical symbol of economic and cultural progress—chugs in the distance. *Courtesy of the California History Room, California State Library, Sacramento, California.*

tracks entered the area. To subsidize and encourage construction, the federal government had already reserved for the railroad nearly half the unclaimed public land in the Mussel Slough region, in odd-numbered, one-mile-square sections, in a checkerboard on either side of the route from Goshen to the dead end at Huron. The future railroad land grant was closed to other entries or purchase. The intervening even-numbered sections remained public land, however, open for private parties to homestead or buy. Unfortunately for settlers, the cumbersome “patenting” procedure intended to transfer deeds smoothly from the government to the railroad companies quickly broke down, producing decades of legal wrangling.

Competing county, state, and federal legal maneuvers added to the chaos. The 1866 federal land-grant law allowed the railroad to choose its own route between San Francisco Bay and the Colorado River, but the company's state incorporation charter stated that it intended to build a main line southward along the coast to San Diego. In early 1867, however, the federal Department of the Interior accepted a map by the Southern Pacific's original owners for a route revision through the San Joaquin Valley south to Los Angeles and east to the Colorado River. The Department closed the vacant

public land to other settlement along the new line in the expectation that the railroad would eventually complete the route and be awarded title to the land.

Within a year, contrary pressure on the Interior Department was building. A group of coastal counties determined to secure the coastal rail line described in the state charter objected to the railroad's route change. A national ring of speculators led by the California land baron William S. Chapman had also lobbied against the railroad's valley route, hoping to add value to their holdings there and to monopolize forfeited, former railroad land in the valley. In 1868, the Secretary of the Interior, who personally opposed grants to railroad companies, ordered the Southern Pacific's land grant revoked on the grounds that the revised route violated the company's state charter. The secretary, however, lacked the legal authority to revise a law of Congress, and never actually restored the reserved land to public entry. The Big Four, who had just purchased Southern Pacific, joined valley communities to convince the Department, now headed by a different secretary, to suspend the order.

Official maps at government land offices continued to show land in the San Joaquin Valley as reserved for the railroad and closed to other settlement. In 1870 the railroad and valley residents persuaded Congress and

the state legislature to confirm the legality of the altered route. Four years later, the Department of the Interior began issuing the railroad deeds for land along the completed segments of track from San José south to Tres Piños and from Goshen south to Bakersfield. But those years of uncertainty, when the Southern Pacific's title seemed in question, had raised a possibility in some people's minds that the railroad's land titles might someday be overturned. If that happened, valuable land along the tracks would be opened to other parties. As happened often across the West, squatter-speculators rushed into take up land along Mussel Slough in hopes of valuable free land.

John J. Doyle led the charge onto the railroad's lands. In 1870, he read a San Francisco news article predicting that the route controversy would one day void the railroad's land grant. Doyle sold his farm and moved onto reserved railroad land near the hamlet of Grangeville, a few miles north of the proposed rail line through Mussel Slough country.

A squatter by his own admission and now calling himself a lawyer, Doyle spread word across the valley that the railroad company's title was flawed. The squatter movement expanded quickly along with the boom caused by the railroad's building through Goshen to the east. By 1875 hundreds of claimants were squatting on railroad land throughout the Mussel Slough district. Doyle established a land business predicated on overturning railroad titles. He secretly contracted with several hundred neighbors to defeat the railroad's title for a fee of 25 cents per acre. The lure of free, fertile lands produced a speculative mania. Some settlers sold farms on government land and moved with their buildings to unoccupied railroad sections. Others expanded their legitimate farms to include adjacent railroad lands. Still others came from across the state to establish claims.

Those who flocked to Mussel Slough wrapped themselves in the mantle of American pioneering. Like other God-fearing small-scale farmers, they claimed, they had ventured forth in good faith into the desert, carving out new homes for their families on what was vacant public land. The railroad, they charged, was a corrupt, tyrannical monopoly that was using its illegitimate power to steal their hard-won farms and homes. A few Mussel Slough settlers actually were bona fide homesteaders whose claims the Department of the Interior did approve. But the great majority established their speculative claims after 1871 on land closed for granting to the railroad, on the gamble that the company would eventually lose its title. According to local land and tax records, however, few Mussel Slough squatters qualified as legitimate

settlers. Many did not inhabit their claims, residing on nearby farms or towns. Some had more than one claim on railroad land, or legally held the adjacent even-numbered government sections. Some had aggregate claims as much as several thousand acres.

Many settlers, particularly the leaders of the squatter movement, were clearly land speculators. The absence of capital improvements was one indication. Most squatters made only the barest investment of money or labor on their railroad claims. Admittedly, these were risky ventures, and settlers used the land accordingly: some lay vacant, some was used for grazing, and some was plowed and planted in unirrigated grain fields. Many squatters located the bulk of their improvements, including houses, barns, wells, irrigation systems, and fences, on their even-numbered sections, with their railroad lands almost untouched.

Doyle and other squatters cooperated to attack Southern Pacific's title. They trooped to the federal land office in Visalia to file mass claims under the preemption and homestead laws, charging that the Department of the Interior had invalidated the railroad's claim and reopened the land to settlement. Local federal land officers rejected virtually all these claims, since the railroad's granted land was reserved and closed to other settlement. Doyle appealed dozens of cases and, in each instance, the Department of the Interior upheld local land office decisions favoring the railroad. Squatters refiled claims several times under different federal land laws, typically with the same result. Doyle and the others lobbied Congress, protested against the issuing of more deeds to the railway, and unsuccessfully introduced bills to revoke the Southern Pacific grant or to legitimize their claims retroactively.

Southern Pacific officials were certainly capable of bribery or chicanery, but in this case, the claimants' major obstacle was their shaky legal position. Few understood how railroad land-grant law had evolved through the 1870s; most of the squatters' arguments had already been rendered moot by decisions of Congress, the United States attorney general, the secretary of the interior, and the courts. The Mussel Slough squatters were bucking nearly a decade of legal precedent, and their victory would have cast doubt over titles to millions of acres within dozens of railway land grants in nearly every western state. Undaunted, the squatters redoubled their efforts.

The claimants also took steps to keep the railroad from selling the disputed tracts to others. In 1878, 500 squatters founded the Settlers' Grand League, vowing to resist "the occupation of so-called railroad lands in the

Mussel Slough district by the Southern Pacific Railroad Company." Members' dues helped finance appeals, while their leaders lobbied politicians and built public sympathy. At the same time, the League warned that they would tear up tracks, burn depots, and incinerate the crops and buildings of anyone who tried to purchase land from the company. From headquarters at Hanford, Leaguers sent anonymous letters ordering land buyers, railway agents, and local residents who criticized the squatters out of the valley. Members assumed the paraphernalia befitting a secret society, including masks, hoods, and long red robes, evoking the Ku Klux Klan and other white-supremacy groups then popular in the



Thomas Jefferson McQuiddy, 1900

A former cavalry officer and secret service agent for the Confederacy, "Major" McQuiddy had come to Mussel Slough by way of Tennessee and Missouri in 1873. He purchased large tracts of even-numbered government sections near Hanford and, like some of his neighbors, moved over to establish claims on odd-numbered railroad sections. An experienced politician and soldier, McQuiddy emerged quickly as a leader in the new community, a natural choice for the Grand League's president and militia commander. *Courtesy of the California History Room, California State Library, Sacramento, California.*

southern states from which many Mussel Slough residents had recently migrated.

Troops of armed and hooded riders roamed the countryside, making nocturnal calls on railroad sympathizers and land buyers. Perry Phillips, for example, had feuded with the squatters for years. He repeatedly ignored the League's warnings to leave the land he had purchased from the railroad. On November 21, 1878, 150 night-riding Leaguers drove out Phillips's tenant, along with his terrified wife and children, then burned their home and possessions. A few days later, Leaguers captured Phillips and two employees on another disputed tract. They held them prisoner while men with 51 teams of horses plowed up Phillips' fields and turned the tract over to squatter James B. Fretwell. Phillips and the railway protested but local authorities took no action. Leaguers insisted that "Indians" were responsible for the attacks. Although it succeeded in generating some support, the League's methods also provoked opposition in the valley, undermining its efforts to unite local people against the railroad.

Into the spring of 1879, the Southern Pacific continued to file trespass complaints against some squatters. At a mass meeting in March, the League organized a "cavalry" commanded by its president, Thomas Jefferson McQuiddy. McQuiddy periodically drilled and paraded the settler militia through the streets of Hanford and other towns. Some Californians denounced the squatters' vigilantism, but in the depressed 1870s, many had come to believe that the railroad, with its political influence, high freight rates, and virtual transportation monopoly, was the root of the state's ills. Anti-railroad politicians, newspapers, and organizations rallied to the claimants' cause and urged them on to defeat the evil "Octopus." Fueling the settlers' armed resistance, the anti-railroad San Francisco *Chronicle* likened them to the colonial patriots at the Boston Tea Party. Unless the Southern Pacific ceased its oppression, the *Chronicle* warned, these farmers would "strike the first blow against land monopoly and corporate greed."

By the end of the 1870s, the Mussel Slough struggle was engulfed in a rising tide of anti-railroad politics. Labor unions and anti-monopoly political parties jumped on the settlers' bandwagon, including the Workingmen's Party of California (WPC), a San Francisco-based group generating statewide influence with its anti-Chinese, anti-corporate rhetoric. John Doyle, who also happened to be an official in the WPC, secured its endorsement of the squatters' cause. The WPC's fiery leader Denis Kearney delivered passionate orations to crowds at Grangeville, Hanford, and Lemoore in 1879,

exhorting the squatters to defeat the Southern Pacific. According to one observer, when Kearney shouted “murder the red-eyed monsters” and promised to lead an army of 40,000 San Francisco workers to defend them from the corporate tyrant, the squatters “hurrahed as if they would split their throats.”

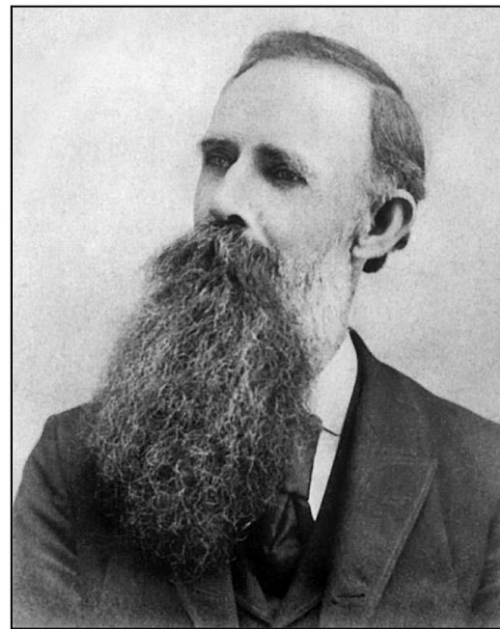


Faced with such bitter opposition, the railroad was in a quandary. The Southern Pacific viewed its land as a legitimate corporate asset, justly earned through the risk and expense of laying tracks through uninhabited country. But the company's overall objective was still to manage its land grant in a businesslike fashion, leading to population growth, economic development, freight and passenger revenues, and thus corporate profits. Thus the railway initially took a conciliatory stance toward its rival claimants.

Over its entire land grant in five states, the company generally enjoyed cordial relations with homesteaders and buyers on its lands, but conflicts inevitably arose. Faulty surveys and maps, sloppy administration, or honest errors by settlers, government land officials, and the railroad resulted in a number of overlapping claims. Most conflicts were resolved amicably, often with the railroad withdrawing its claim or selling to settlers at the government price. Some disagreements became tangled and acrimonious, leaving a residue of bitterness against the Southern Pacific.

Not all the railroad's contestants, however, were good-faith settlers. As typically happened on American frontiers, squatters and resource thieves often invaded railroad lands. These persistent interlopers used well-known frontier devices to detach land from its owners. They forged claims and dates of settlement, moved surveyor's markers, extended their fences to enclose railroad land, filed multiple homestead claims on government and railroad sections under fictitious names, transported cabins from tract to tract to establish residence in many places, planted crops, grazed livestock, cut trees, removed gravel and building stone, and diverted water from railroad land. Railway leaders had quickly learned to distinguish between legitimate and illegitimate settlers. Although the company refrained from vigorously asserting its rights against good-faith settlers, it spared no effort or expense to defeat challenges by squatters. Seemingly innocuous cases might establish dangerous precedents losing the company thousands of acres later.

Torn between a determination to defend company lands against trespassers, and a corporate policy of accommodating settlers for the sake of future profits, Southern Pacific leaders moved slowly in Mussel Slough. They were confident that their position was ethical and legal, based on previous court cases and government decisions, and that the Mussel Slough squatters' claims were illegitimate. But these claimants were unusually numerous, organized, and vociferous. Moreover, they were attacking the validity of an entire grant, jeopardizing millions of acres. Convinced that important legal issues were at stake, executives told their San



Southern Pacific Land Agent D. K. Zumwalt

In his popular 1901 novel *The Octopus*, based on the Mussel Slough land controversy, the great California writer Frank Norris fashioned one of the most loathsome characters in American fiction, S. Behrman, the Southern Pacific Railroad's corrupt land and political agent for the San Joaquin Valley. Ironically, Behrman's true-life prototype, D. K. Zumwalt, was a long-time resident and respected leader in Visalia and the valley. On many occasions, he persuaded Southern Pacific executives to soften policies toward buyers and squatters on railroad lands. *Courtesy of the California History Room, California State Library, Sacramento, California.*

Joaquin Valley agent: "Spare no pains, or any reasonable expense, to win this land for the company."

Proving title before a court was one thing, physically removing 500 to 600 squatters was another. Aware of their numbers, significant popular support, and the possibility of wider political and economic reprisals, the company tried to coax the squatters into buying or leasing claims legitimately, thus acknowledging the validity of the company's title. Ultimately, the Southern Pacific hoped to defend its title, while converting the squatters into customers.

The company began preparing Mussel Slough land for sale immediately after receiving its patents there in 1877. In early 1878, the company sent an experienced land-grader, William H. Clark, to inspect and price the land, based on comparable land prices nearby. As was customary, the railroad then reduced Clark's prices 20 percent. To quell rumors that the company would sell land out from under the squatters, Jerome Madden, head of the Land Department in San Francisco, announced that the company would first offer occupied lands to those in possession. For residents who refused to buy, the company offered leases so that they could harvest their crops and remove private property, including any improvements. Based on prior experience with squatters, officials believed the Mussel Slough people would eventually come to terms.

At the end of April 1878, Madden sent letters to hundreds of illegal occupants of railroad lands. According to the railroad's usual procedure, the letters announced the land's price per acre and gave squatters 30 days to purchase their land, at which time the land would be placed on the market for public sale. The price per acre varied from parcel to parcel, but in each case the rate was substantially higher than the official government rate for public land, \$2.50 an acre. However, officials considered Mussel Slough lots the most valuable land in the entire railroad grant. Plus, it was the railroad that had brought the land transportation and market access.

Madden's letters sent a shock wave through the district. On May 10 the Settlers' Grand League denounced the railroad, claiming that it was demanding from \$20 to \$50 per acre, in some cases as much as \$80 an acre. Squatters charged the Southern Pacific was attempting to profit from the settlers' improvements, especially their irrigation works, which were the true source of rising land values, not the railroad's construction. Leaguers still insisted that the company's title was invalid, but even if the title were valid, then the railroad was required to set prices at the government price on public land, \$2.50 per acre.

Subsequent writers have taken at face value the outrageously high prices cited by the settlers. But Southern Pacific maps, price lists, and sales records for the San Joaquin Valley reveal that the squatters were exaggerating the company's prices from 100 to 400 percent. Of the hundreds of tracts the railroad offered for sale in the district, almost all were priced between \$10 and \$20 per acre. Virtually none sold for more than \$25 an acre, except for a half-dozen tiny suburban plots adjacent to railroad towns. Most of the tracts were 40- to 160-acre parcels, and the company offered a variety of low-interest, long-term mortgage and lease terms, further reducing settlers' out-of-pocket expenses if they chose to legitimize their claims.

The railroad's actual asking prices on lands claimed by the League's leaders were typical. Doyle's farm was priced at \$20 per acre, McQuiddy's several claims at \$9 to \$13.50, and Henry Brewer's lots at \$19 per acre. These prices were indeed higher than most, but not all, Southern Pacific lands elsewhere in the valley, but a recent study of prices throughout the district confirms that rates on the railroad's Mussel Slough tracts were comparable or lower than prices prevailing on unimproved land exchanging hands on non-railroad sections in the district. Leaguers themselves used these prices throughout the 1870s, as they often bought and sold land on even-numbered sections for \$11 to \$25 per acre. In 1874, for example, when Henry Brewer subdivided his legal holding on the public section next to his railroad claim, he priced the land at \$15.87 per acre. Mussel Slough acreage was unusually valuable and everyone—from railroad executive to indignant squatter—knew it.

Although they were surprised by the vehemence of the League's response, the Southern Pacific began selling its patented land. To avert confrontation, it periodically sent letters to those claiming the disputed tracts, renewing the railroad's offer of sale. Only a few accepted the railroad's offers. Still, the company resisted the temptation to sell disputed tracts to outsiders. Hoping that residents would finally agree to buy their land, in July 1878 Southern Pacific reduced its prices another 10 to 25 percent. They also made purchasing or renting more attractive by offering to take one-fifth crop-share leases in lieu of cash, applying rent towards future purchases. From May to October, some Mussel Slough claimants overcame their fear of League reprisals and accepted the railroad's terms.

As 1878 came to end, Southern Pacific leaders were running out of patience. In their view, they had been more than fair. They'd given the squatters free use of railroad land, in some cases for six or seven years. But

the land was not free to the company: as soon as the company received titles from the federal government, Tulare and Fresno counties had begun levying property taxes on the land. Although they fumed over their rising overhead, executives still were reluctant to provoke direct confrontation. As company balance sheets continued to bleed red, officials decided they could wait no longer. In October 1878, the Southern Pacific put the disputed tracts on the market, after giving occupants one last chance to exercise their option to buy.

The company's decision to put the contested lots on the market provoked the ensuing tragedy. The Southern Pacific's Mussel Slough problem now came to a dramatic head, as the conflict moved into another phase, from squatter-versus-corporation, to squatter-versus-settler. Squatter pressure was reviving long-simmering disputes, between old-timers and newcomers, ranchers and would-be farmers, land owner/buyers and squatters without clear titles, haves and have-nots—in short, among many who had come to the Tulare Basin in search of opportunity.

Ingrained social conflict in the county had started in the 1860s, long before the railroad arrived. As was true throughout the West, Tulare County's transition from open-range cattle-raising to agriculture was rough and bloody. By the late 1860s, pioneer grazers occupied most available public land, especially the well-watered tracts. Connected by intermarriage and commercial ties, ranchers' families prospered modestly and became entrenched as the local elite. Their dominance weakened after 1872, when the Southern Pacific arrived at Goshen and farmers rushed in. Some were Confederates fleeing the chaos of the post-Civil War South. By the mid-1870s, these late-comers constituted the majority of the population, and clashed with the pioneer grazers over the remaining tracts of public land, local politics, land use, and, most importantly, shares in the irrigation companies, which were dominated by the old-timers who had come before 1870. Conflict degenerated into smoldering feuds, beatings and shootings, burned barns and crops, torn-down fences, ruined irrigation ditches, and slaughtered livestock. Many of those who chose to purchase railroad tracts belonged to the pre-1870 faction, fueling the animosity of recent arrivals.

Squatters later insisted that those who agreed to buy their claims from the railroad were outsiders, thugs, and hooligans hired by the company. Actually, almost all the buyers were local residents or at least from neighboring areas, including Perry Phillips, Mills Hartt, and Walter Crow. These men and others faced fierce resistance when they purchased and began cultivating railroad

land, particularly after 1878. Leaguers threatened violence against railroad land purchasers, and made good with nighttime raids of masked riders, arresting and evicting buyers and burning their crops and possessions.

More threats and violence increased pressure on the railroad. After attacks on the company's land buyers, and even some of its employees, sales and rentals of railroad land declined sharply. By the summer of 1879, the company's land transactions had ceased altogether. Reluctant buyers and tenants admitted that they feared the Leaguers, who were roving throughout the basin making threats and demanding support for the squatter movement. Deteriorating conditions compounded the Southern Pacific's dilemma. The company's very chain of command, or lack thereof, made coordinated decision-making difficult. Each of its four owners had equal ownership and influence over the company's multitude of railroads and other properties, fragmenting authority and complicating leadership. Control was further divided by dual headquarters, at San Francisco (Stanford and Crocker) and New York (Huntington). Compounding the decentralized authority was the cumbersome communication of the era and deteriorating personal relationships among the surviving three who had started the company. Although they agreed that the Southern Pacific must defend its land titles, they differed sharply over how best to deal with the squatters. Stanford and Huntington considered the claimants innocent dupes of unscrupulous advisers. Rather than oust the squatters and further damage the company's public image, they favored an additional reduction in prices. If the settlers bought the land, the company would protect its titles in California and elsewhere, far outweighing any losses the company incurred by underselling Mussel Slough land. On the other hand, Charles Crocker, titular president of the Southern Pacific Railroad and legally responsible for its land grants, insisted on strict enforcement of both title and land prices, pressing for a show of force against the squatters. Unable to agree on a plan of action, Southern Pacific leaders vacillated, their actions contradictory and ineffective.

In late 1878, with violence intensifying and land sales almost dead, the company's executives finally decided to start eviction proceedings, which they thought would force the squatters to come to terms. As a bonus, the company hoped the suits would discourage more squatters from settling on railroad lands elsewhere. However, still reluctant to further antagonize opponents, company leaders instituted test cases, against only a handful of squatter leaders. The evictions were to be prosecuted slowly, giving the masses of squatters both time and incentive to negotiate for the land.

After informing squatters a final time that they would be evicted if they did not buy, lease, or abandon railroad land, officials filed the first lawsuits in December 1878. Some squatters capitulated immediately. By January 1879, dozens had contacted the railway, proposing to buy or rent, and asking that the suits be dismissed. The company halted proceedings as soon as settlers signed contracts. For some cash-strapped squatters, it even agreed to pay court costs. Late in April, the Southern Pacific was patiently waiting for the remaining eviction cases to run their course, still holding off on initiating proceedings against the remaining squatters.

The League, however, responded aggressively, organizing a militia and increasing attacks on purchasers. In April 1879, an informant alerted the company that the remaining squatters had signed a secret pact with the League to ignore the test cases, resist eviction, and force the company to sue and evict them one by one. Convinced that its moderated legal strategy would not succeed, the company immediately filed lawsuits against all remaining squatters. By mid-1880, several hundred ejectment suits were pending before the federal circuit court in San Francisco.

The first court decision, *Southern Pacific Railroad Company v. Pierpont Orton*, was announced in December 1879; *Orton* set the pattern for the rest. The judge rejected all of the settlers' arguments. The company's route change was legal; the 1867 map filed by the railroad, according to law and established procedure, transferred those land titles to the corporation; the Interior Department had no legal authority to revoke land grants made by Congress; and, finally, grants along the finished portions were valid even though the company had failed to complete the entire line by its 1878 deadline. The court further held that Orton and, by extension, everyone else who settled after 1867, had no standing to challenge the validity of railroad's title. The Southern Pacific eventually won each of its ejectment suits, usually gaining not only eviction orders but also court costs and damages. For the Mussel Slough squatters, the rulings were a stunning blow.

After *Orton*, Southern Pacific leaders were confident that their cautious strategy would now work. More and more settlers were coming to terms; many more were likely to do so to avoid the costs of losing in court. Roughly half of the 500 to 600 squatters reached agreements with the company. To woo the stragglers, early in 1880 the company again liberalized its land-sales procedures, reducing mortgage interest rates from 10 to 7 percent. The railway again offered to withdraw eviction suits if squatters signed contracts or abandoned their

claims. To give holdouts enough time to buy or leave, the company announced that it would postpone enforcing the eviction orders and damage judgments until April 1, 1880.

Yet, some squatters stood firm. About 200 remained militant and inflexible, convinced that their claims would still be validated. John J. Doyle convinced the state legislature to voice support for the squatters and to call on Congress or the Supreme Court to reverse *Orton*. Meanwhile, Leaguers promised to forcefully resist evictions.

Many squatters and other residents of the region, however, admitted the squatter movement had failed. In February 1880, a delegation quietly contacted Crocker and offered a compromise proposal: they would acknowledge the railroad's title if the company would sell at the prices the company advertised in its general land sales pamphlets, "viz: from \$2.50 to \$5 per acre." Crocker agreed to meet with the group and negotiate prices "upon the basis of the value of the land," but he flatly rejected the offered price range, which was inaccurate and lower than stated in the railroad's pamphlets. For the first time, what had begun as a contest over titles became a squabble over prices.

Leland Stanford chose this moment to intervene personally in the conflict. Still harboring political ambitions, the former governor offered to confer with the Settlers' Grand League to reach "an amicable adjustment of all differences." Meeting in Sacramento on March 4, 1880, Doyle, McQuiddy, and Stanford reached a preliminary agreement: legal proceedings on both sides would be stayed, settlers would no longer question the railroad's title, and Stanford would inspect the disputed lands and try to arrange for lower prices. Although the visit took place and both sides expressed cautious optimism, negotiations ultimately failed, in part because the company's leaders continued to disagree among themselves. Crocker's later letters to Huntington make it clear that Stanford and Huntington still favored deep cuts in price to end the impasse, while Crocker, irritated by Stanford's intervention, refused to go along. He would agree to reduce prices by only \$1, to \$4 dollars per acre.

Furious League spokesmen denounced the railroad for yet more deception. Doyle, McQuiddy, James Patterson, and 25 armed and masked men descended on the company's land agent at Hanford and drove him out of town. A handful of squatters signed contracts, but Doyle managed to rally the rest for one last legal challenge before the U.S. Supreme Court. To bolster the League's unraveling alliance, leaders scheduled a mass protest meeting in Hanford for May 11. Their attorney,

the famously bellicose David S. Terry, was scheduled to deliver a rousing address on the justice of the settlers' cause. Tempers in the valley were raw.

In San Francisco, Southern Pacific leaders pondered their next move. Like the settlers, they now saw the conciliation effort as a ruse: the squatters had only pretended to negotiate in order to gain time for yet another legal challenge and to grab yet another free year on the railroad's lands. Moreover, some of those who had purchased contested lots—in some cases years earlier—were threatening legal action if they were not given immediate use of the land. Most insistent were Mills Hartt and Walter Crow. An exasperated Crocker finally asked the circuit court to enforce some eviction rulings. Land agent Madden wrote Hartt alerting him that a U.S. marshal would arrive in Hanford on the morning of May 11 to drive him, Crow, Perry Phillips, and several others to take possession of their lands.



On the fateful morning of May 11, Marshal Alonzo Poole got down from his buggy and walked across Storer and Brewers' disputed claim toward the Settlers' League riders. Poole was immediately surrounded by an angry crowd, obscuring him from his own party's view. Poole informed the Leaguers of his mission and tried to read the court orders, but the men drowned him out, shouting that they could not permit the marshal to enforce eviction orders while the cases were still under appeal. Poole admitted that the settlers' cause had merits but, as a federal officer, he had a legal duty to perform.

James Patterson, who appeared to be in charge, demanded the marshal's revolver. Poole refused, but assured them that he did not intend to use it. Someone shouted, "On peril of your life, surrender your pistol!" When Poole remained steadfast, Patterson allowed the marshal to keep his gun, but he placed Poole under armed guard.

While Poole and the settlers argued, William Clark, Mills Hartt, and Walter Crow waited nervously on their wagons. Unable to see Poole amidst the shuffling men and horses, they could only make out menacing gestures and unintelligible shouts and curses. As Clark later said, all he could see was someone waving a revolver in the air and crying, "God damn you, give up your arms!" Crow again reached for his gun, but Clark stopped him, saying, "Walter, keep cool. All depends on keeping cool." The crowd broke apart, revealing the marshal and his two guards, and the militia rode forward

and surrounded the wagons, revolvers drawn. One of the riders, James Harris, brandished his pistol at Clark, Hartt, and Crow and demanded their weapons. Clark refused and Hartt appeared to move towards his gun, but Crow restrained him.

With everyone tense and confused, a shouting match erupted between Crow, Hartt, and several of the riders. The stomping horses raised a cloud of choking dust. The horse under one of Poole's guards suddenly lurched, and the marshal was accidentally knocked to the ground. Believing he'd been attacked, Hartt and Crow dove for their arms and in an instant, they and Harris all fired. It was impossible to say who fired first, but Hartt fell mortally wounded; Harris and settler Iver Knutson died on the spot.

The horses hitched to the wagons bolted and Crow hit the ground running, firing both a revolver and a shotgun. Heading for the fallen marshal, he exchanged fire with Poole's guards and killed them both. Within a minute, 20 or 30 shots were fired but Poole and Clark, like most of the men, held their fire.

The shooting ended abruptly, the field a dusty chaos of gun smoke, bucking horses, bouncing wagons, and cursing men. Hartt and five others lay dead or dying; miraculously, Poole, Clark, and Crow were unharmed. More men arrived by the minute, until soon 100 were shouting and demanding answers. While the dead and wounded were being carried to the shade of an oak tree, Poole and Clark took Crow aside and warned him that he would probably be killed when the crowd knew what had happened. Crow slipped away, still carrying his shotgun and revolver. Later that afternoon a search party found Walter Crow's body a mile and a half from the battle site. He'd been shot in the back at close range.

Clark and Marshal Poole drove away toward safety in Hanford. Within a mile, they were intercepted and surrounded by yet another throng, this one led by militia-leader Thomas Jefferson McQuiddy. McQuiddy handed Poole a paper forbidding the marshal to enforce evictions. "This is a bad business, Major," Clark told him. "Yes, it's a bad business," McQuiddy returned, "but we are fighting for our homes, and we propose to fight for them." He warned Poole and Clark that they would never reach Hanford alive and detailed a guard of four armed men to escort them north to Kingsburg instead. Arriving late in the afternoon, Clark and the marshal checked into a hotel for the night, but a stage-coach driver warned them that a troop of squatters was coming to kill them. Poole and Clark caught the first northbound train for San Francisco.



"Tragedy Oak"

The dead and wounded Mussel Slough settlers were placed under a sprawling valley oak in Brewer's front yard. The last surviving witness to the battle, the tree was marked with a state historical plaque in 1948. Now blighted by pollution and excessive watering from farm irrigation, "Tragedy Oak" may not survive another generation.

Photograph by Richard J. Orsi.



Only a few dozen individuals participated in the gunfight at Mussel Slough, yet the battle became an overnight sensation. The stunning news pulsed through telegraph wires across the state and around the nation. Within hours, Huntington and Stanford read about it in New York. Public reaction was explosive but mixed. Most Tulare County groups condemned the Southern Pacific, but the state's major newspapers—even some that had praised the squatters—now branded them as criminals and demanded that they be punished. After having encouraged squatter vigilantism, San Francisco's *Chronicle* turned about and denounced those who "by their rash course . . . in opposing armed resistance to the law, [had] placed themselves clearly in the wrong before the tribunal of public opinion and terribly prejudiced

their case." Even San Francisco *Post* columnist Ambrose Bierce, a trenchant critic of the Southern Pacific, took its side against the squatters. He accused John Doyle, whom he knew well, of being "the Mephistopheles who for his own aggrandizement has led these settlers into all the trouble in which they find themselves."

Such early critical judgments, however, were soon drowned by popular sympathy for the squatters, who were transformed into martyrs murdered by the railroad. Businesses in the Mussel Slough area closed their doors in mourning and several days after the battle, long processions of weeping mourners buried the dead Leaguers. For months after the shooting, farm, labor, and civic groups around the state held mass anti-railroad meetings, many organized by leaders of the Settlers' Grand League. Fund drives raised thousands of dollars for the squatters' relief and defense. Tens of thousands of people signed petitions pleading for clemency toward



"Impending Retribution"

One of the foremost political cartoonists of his era, George Frederick Keller, who drew for San Francisco's satirical magazine *The Wasp*, viewed the growing anti-railroad movement of the early 1880s as "retribution" for the Big Four's oppression of the Mussel Slough settlers. That theme was sounded by cartoons, editorials, and political orations for decades. This cartoon was published on October 7, 1882. *The Wasp*.

the squatters and a revocation of the Southern Pacific's land grant. Eastern anti-corporate newspapers such as New York's *Sun* hailed the Mussel Slough martyrs as an advance guard in the war against monopoly.

Local officials at first refused to arrest those who had confronted Marshal Poole. Although rumors flew regarding the identity of Crow's killer, no one was ever charged. The Southern Pacific repeatedly pressed the U.S. Attorney General to prosecute and finally, in the summer of 1880, a federal grand jury in San Francisco indicted eleven settlers, including Doyle, McQuiddy, and Patterson. At the December trial, Doyle, Patterson, and three others were found guilty of obstructing the marshal in the performance of his duty. Sentenced to a bizarre eight-month sentence in unlocked cells at the San José jail, the five settlers attended church, lodge meetings, and dinners in their honor. While travelling back to Mussel Slough, they were celebrated and entertained along the way. Neighbors in Hanford gave them a hero's welcome, complete with bands, banners, parades, and anti-railroad orations.

McQuiddy vanished. Sheltered by friends and local officials, he evaded capture for years. While a fugitive, he became the hero of anti-corporate groups, and a nominee for governor by both the Anti-Monopoly League and the Greenback Party in 1882. In the election, he finished a distant fourth to Democrat George Stoneman. Federal prosecutors finally dismissed charges against him four years later.

What happened to the remaining squatters? As had been true from the beginning, the residents of Mussel Slough remained sharply divided. Discredited in the eyes of many, the Grand League limped along into the late '80s. Still under the sway of Doyle and McQuiddy, it tried to keep buyers from dealing with the Southern Pacific, collected fees from landowners, and mounted unsuccessful legal appeals. Although they resented the railroad, leading businessmen, landowners, and others urged squatters to settle with the company for the sake of community peace. Some discontented Mussel Slough residents formed an anti-League organization, the Farmers' Club, and condemned the squatter

movement for producing violence, disharmony, and economic stagnation.

Though shocked by the violence, Southern Pacific leaders persisted in their policy of defending the railroad's titles in court while attempting to settle privately with individual settlers. Within a year all the squatters had been sued. The lawsuits and local disenchantment with the League finally brought many claimants to settle. In late May 1880 a delegation of community leaders from Hanford and Lemoore negotiated a compromise with Charles Crocker. The railroad president agreed to lower prices by an additional 12.5 percent, retroactive for those who had already purchased.

Some squatters complained that the price reduction still wasn't enough, but droves of them rushed to buy, most using Southern Pacific credit plans. In June, in an attempt at further conciliation, the company began crediting the amounts squatters paid in court judgments towards their purchase and lease agreements. By December 1880 most of the squatters had legalized their claims. Except for a few small disputed tracts either unoccupied or still awaiting court judgments, all disputed Southern Pacific land in the Mussel Slough region was either sold or leased by June 1881.

The settlers finally won their long-awaited legal hearing when the U.S. Supreme Court accepted three test cases on appeal. In December 1883, the court rejected the settlers' arguments and upheld earlier decisions in favor of the railroad. John J. Doyle lost his lawsuit

and paid a judgment of \$1,214. A few squatters held on, refusing to bargain with the railroad, obey eviction orders, or pay judgments. Lax local sheriffs and federal marshals delayed serving papers for months, even years, allowing squatters to use the land in the interim. Most remaining squatters vanished or were evicted within a year or two, but several were still illegally occupying land as late as 1887. Sporadic violence persisted for years among settlers competed for remaining railroad land.

The Mussel Slough affair etched in bold relief the struggle between individuals and corporations in late-nineteenth-century America. At Hanford, annual public memorials kept the memory of the battle vivid, cementing the myth of pure-hearted pioneers combating an evil monopoly. The gunfight inspired songs, poetry, short stories, and novels, the most famous of which was Frank Norris's *The Octopus* (1901). Drawn from the settlers' own pamphlets and back issues of anti-railroad newspapers, the novel reflected the popular legend. Although completely misstating what had actually happened, Norris's book intensified public outrage against the Southern Pacific and railroads in general. In its popularity, his account helped pave the way for progressive, anti-corporate reformers to capture state government in 1910 and to enact tougher controls on railroads. According to a friend of the great progressive president, *The Octopus* convinced Theodore Roosevelt that "conditions were worse in California than elsewhere."