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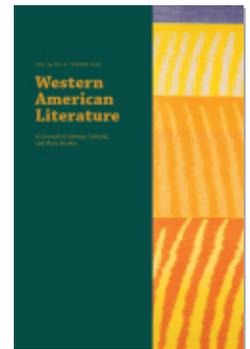
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# Property and the Ideology of Improvement in María Amparo Ruiz de Burton's *The Squatter and the Don* and California Travel Narratives

VALERIE SIRENKO

In María Amparo Ruiz de Burton's *The Squatter and the Don* (1885), Don Mariano Alamar, a California rancher of Mexican heritage, or Californio, finds himself stuck in legal limbo while the US courts decide whether to confirm the title to his lands. In the meantime, white settlers have begun to stake claims to his land under the authority of the Homestead Act of 1862, which allowed heads of households to claim 160 acres of public land after five years of cultivating or "improving" it. Although the Homestead Act only permitted homesteading on public land, the settlers in *Squatter* are betting that Don Mariano's title will be denied by the courts and his private land will become part of the public domain. Ruiz de Burton's novel unpacks how legislation like the Homestead Act, the California Land Act of 1851, and the No Fence Law created a legal climate in which property disputes—regardless of the actual outcome in the courts—led to the dispossession of Californios because an uncertain title put this marginalized and racialized group in the disadvantageous position of depending on the Anglo American legal system. Even those whose titles were ultimately confirmed often lost their lands because decades of expensive litigation left many ranches heavily mortgaged.<sup>1</sup> Ruiz de Burton's novel dramatizes how the US legal system cast Mexican American titles into question and facilitated Anglo American discursive and ideological interventions that altered the terms through which property would be legally understood. This essay examines the way Ruiz de Burton and other writers used late nineteenth-century print culture to fight for control over the terms through which

one could articulate a property claim within the competing US and Mexican legal traditions.

Ruiz de Burton criticizes US legislation for deliberately designing the process of legal limbo as a strategy to dispossess the Californios. She suggests that the California Land Act caused “all the private land titles [to become] *unsettled*” because the law’s true purpose was to “upset the rights of the Spanish population of the State of California” (84). In the meantime, Anglo American farmers are able to kill Don Mariano’s cattle with legal impunity. Mariano argues that the laws protect one type of property—wheat crops—at the expense of another: cattle. According to Mariano, nefarious lawmakers use agriculture as a “pretext” while intending “in reality to destroy cattle and ruin the native Californians” (65). While Don Mariano makes plain his understanding of the racialized intent behind these laws, his argument primarily emphasizes the inefficiency and waste of a legal system that protects small amounts of grain at the expense of valuable cattle and capital: “By those laws any man can come to my land, for instance, plant ten acres of grain, without any fence, and then catch my cattle . . . until for such little fields of grain I may be obliged to pay thousands of dollars” (64). In contrast, as we will see, Anglo American narratives about California depict wheat farming as a more productive way to use the land, a rhetorical strategy that implicitly justifies stifling the cattle industry.

The key operating term used to depict wheat farming as worthier of legal protection than cattle ranching was “improvement,” a term that carried a long history in the Anglo American legal tradition as creating a property claim. During the rapid expansion of white settlers into California following the US–Mexican War, the ideology of “improvement” pitted white settlers, who intended to establish their title to the land through the labor of making the land more productive, against the Mexican American landholders whose titles derived from land grants. Ruiz de Burton’s novel engages with the term “improvement” and its surrounding terms—“waste” and “vacancy”—by aligning her characters with the cultural logic that land belongs to those who make it productive. When one squatter proposes that “all we have to do is take their lands, and finish their

cattle,” the honest but misguided squatter William Darrell disapproves of shooting the cattle because “to do this was useless cruelty and useless waste of valuable property” (71). While California histories and travel narratives written by Anglo Americans depict the Californio ranching industry as failing to make productive use of the land, Ruiz de Burton reorients her Californio protagonists within the ideology of improvement by recasting ranching as more useful than wheat farming and by depicting the squatters as wasteful.

To uncover the terms through which mid- to late nineteenth-century California property claims were contested, I will compare the way Mexican American and Anglo American narratives, in both fiction and nonfiction, asserted claims to the land within three sites of ideological contest: representations of the land as “vacant” and in need of “improvement”; claims to authoritative local knowledge concerning which agricultural models made the land most productive; and cultural and legal understandings of the fence as a sign of ownership and exclusion. I examine the cultural assumptions surrounding property rights in Ruiz de Burton’s *Squatter* and the nonfiction texts with which the novel was in dialogue, including travel narratives, newspapers, and twentieth-century histories that recast this struggle within a narrative of US national progress. These diverse texts’ differing representations of two competing agricultural models—the cattle ranching industry dominated by the Californios and the wheat farming enterprise favored by the white settlers—reveal how competing articulations of how best to utilize the land reflect a broader ideological conflict in which an Anglo American legal tradition that idealized “improvement” was used to depict the Californios as undeserving of their land. In this way, I examine Californio dispossession as part of a discursive, ideological contest that played out in nineteenth-century print culture.

In Ruiz de Burton’s novel and the related nonfiction texts, the idea that the one who should own the land is the one who makes it most useful appears again and again. After the transfer of Alta California from Mexican to US sovereignty in 1848, the ranchers of Spanish descent, known as Californios, experienced geopolitical, social, and legal dispossession as American settlers moved into the region, staked claims to the land, and redesigned the legal pro-

cess for adjudicating property disputes. The Treaty of Guadalupe Hidalgo promised to respect Mexican property rights, but when Congress removed Article X, which confirmed outright the validity of all Mexican land grants, and replaced it with the Protocol of Querétaro, which introduced doubt about these grants' legitimacy and required their confirmation by US courts, the US greatly weakened Mexican land titles and produced immense bitterness and feelings of betrayal among the Mexican citizens who had chosen to remain in the United States.<sup>2</sup> The California Land Act of 1851 further undermined Californio titles by requiring all land grants to be proven and confirmed before the Land Commission. Working in conjunction with these legal procedures, the ideological principles behind the Homestead Act encouraged squatters to stake claims on any land that appeared vacant or unused. In this context, the grafting of an Anglo American legal tradition upon the region redefined the ideological assumptions through which property would be contested at law. Ruiz de Burton's novel dramatizes the ideological conflict in which the Anglo American conception of property rights based on improving the land's productivity was used to depict Californios as wasteful and unproductive. To combat this narrative, Ruiz de Burton's novel operates rhetorically within this set of assumptions to depict the Californios as adhering to and participating in the principles of land ownership that the Anglo American legal tradition finds most compelling.<sup>3</sup> Her novel takes up the ideological assumptions concerning improvement, vacancy, and waste in order to cast her Californio protagonists as the ideal proprietors of the land.

Because law always involves cultural negotiation, competing claims to the land were contested not only within political and legal discourse but also within the novels, historical narratives, and newspapers that recast this struggle within culturally encoded terms like "waste," "vacancy," and "improvement." The idea that improvement creates a right to land derived from a transatlantic British legal tradition stretching back to the sixteenth-century enclosure movement in England and most famously expressed in John Locke's *Second Treatise of Government* (1689). Locke argued that land is removed from common ownership by an act of labor:

“As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. He by his labour does as it were enclose it from the common” (14). Combined with this theory of “improvement” were the ideologically loaded terms “vacancy” and “waste.” In the Lockean legal tradition, vacancy translates into waste. Locke’s rhetoric describes the American continent as “vacant places” that are “of so little value without labor” that a man needs “no other title” than his “industry” to claim the land (16). Locke’s emphasis on labor as the key to securing property rights was well suited to the land acquisition aims of US imperialism in California because Locke’s theory fails to consider the needs of agricultural models, such as cattle ranching, that are not labor intensive but rely on large open lands for grazing. Anglo American settlers projected the rhetoric of vacancy and waste onto the Californio ranching industry in order to justify acquiring the land in the name of improvement.

Against the Lockean theory that title is acquired through labor, Californio property rights derived from a legal history in which the Spanish and Mexican governments granted large holdings to powerful families who would encourage settlement and develop communities. As Laura Gómez shows, the transformation of property ownership from the Mexican tradition of communal holdings to the US legal system’s emphasis on individual property rights dispossessed both elite and nonelite Mexicans because much of the land was owned collectively, a concept not recognized by US law (117). While the Anglo American conception of property prioritized individual ownership, legal formality, and strict documentation, the Mexican property system in decentralized areas was informal, often based on oral agreements and personal relationships, did not require rigid documentation, emphasized local dispute resolution rather than court trials, and did not require the same degree of precision in recording boundaries.<sup>4</sup> In addition, scholars have shown that Mexicans and Anglo Americans held different cultural attitudes toward the land’s purpose, with Mexicans viewing the land as a family heritage or a communal resource, while Americans took a more utilitarian approach that sought to capitalize on the land’s market value.<sup>5</sup> When the United

States imposed its property system onto the region it combatted a host of preexisting property concepts, including the usufructuary rights held by Indigenous peoples, the communal grants given to the Pueblo Indians, and the informal agreements between Mexican farmers and landowners concerning boundaries, rents, and reciprocal services (Montoya 12). As Montoya explains, “For the U.S. courts to privilege individual ownership and demand written documents to define such rights was to effectively refuse to enforce Mexican property rights” (4–5). Because the differing US and Mexican understandings of property competed for traction and legitimacy not only in the legal sphere but also within cultural discourses, an examination of the legal leverage of terms like “improvement,” “waste,” and “vacancy” requires an approach that traverses multiple rhetorical forms and genres in both fiction and nonfiction.

Ruiz de Burton’s biography reveals the pervasive impact of improvement ideology in the history of land rights as a means of producing cultural and legal legitimacy. Born in Baja California in 1832, María Amparo Ruiz moved at age sixteen to Alta California after the US–Mexican War. She married Captain Henry S. Burton, who in 1853 purchased Jamul Ranch near San Diego, which became the source of decades of litigation. The land was originally granted to prominent Californio Pío Pico in 1831 but never officially certified, a technicality that caused the title to be rejected by the Land Commission in 1855. Because the Burtons’ claim to Jamul depended on the confirmation of Pico’s title, Captain Burton appealed the Land Commission’s decision, but in the meantime squatters began settling on the ranch (Sánchez and Pita, *Conflicts*, 97–100). Rosaura Sánchez and Beatrice Pita implicitly acknowledge that making “improvements” on the land would strengthen one’s legal claim when they note in support of Pico’s original title that Pico’s family “lived at the Jamul ranch, where they built an adobe home, and both cultivated the land and placed cattle on it to graze” (97). Likewise, Sánchez and Pita explain that the Burtons repaired the ranch house and “improved the property with cattle and horses” (99). That Sánchez and Pita include these details as arguments in favor of the Burtons’ title and frame them in terms

of “improvement” demonstrates the persuasive power that the ideology of improvement continues to have for today’s readers. For scholars of Chicana/o history invested in reclaiming the legitimacy of Californio land rights and the injustice of their dispossession, recourse to the ideology of improvement continues to be a useful strategy for articulating recovery projects.

Methodologically, *The Squatter and the Don* requires a critical approach that takes into consideration the dialogic interplay between fictional and nonfictional narrative forms. Written after the Homestead Act, the California Land Act, and the No Fence Law had undermined Californio titles, Ruiz de Burton’s novel counters the cultural logic behind these legislative policies by envisioning large land holdings as necessary to the cattle ranching industry. While *Squatter* has been defined variously as sentimental fiction, realist fiction, protest novel, and historical romance, Ruiz de Burton’s critique of how cultural ideologies like “improvement” underpin the legal processes that produce racialized dispossession resonates strongest when her novel’s representation of California history is put into conversation with competing nonfiction accounts.<sup>6</sup> *Squatter* has often been read as “a narrative that challenges the dominant discourses of U.S. colonization,” and these discourses traverse multiple legal, historical, and literary genres (Alemán, “Novelizing” 38).<sup>7</sup> Because Ruiz de Burton’s fiction counters the US imperialist discourses that marginalized the Californios, early scholars such as Sánchez and Pita characterized Ruiz de Burton as “subaltern” in order to claim *Squatter* as part of the Chicana/o protest novel tradition. However, others such as José Aranda, Jesse Alemán, Manuel Martín Rodríguez, John Moran González, and Rodrigo Lazo caution us not to overlook Ruiz de Burton’s elite status and problematic identification with the European colonial project.<sup>8</sup> For example, González argues that Ruiz de Burton’s resistance to her own dispossession depends on the same colonial logic that privileged whiteness at the expense of nonwhite others “even as it erases the preconditions for such claims: the Spanish colonial regime of racialized Indian labor” (87).<sup>9</sup> As scholars have shown, Ruiz de Burton identified as white, and her ancestors participated in Alta California history as colonizers who dispossessed Native

peoples.<sup>10</sup> Nevertheless, despite Ruiz de Burton's complicity with discourses of whiteness and Spanish colonialism, her novel allows us to examine how the language deployed in nonfictional narratives contributed to the transformation of an elite, landowning class into a racialized minority group and how the genre of the novel could be used to intervene in this process.

Ruiz de Burton designed her novel as an argument to serve the explicit purpose of defending the property rights of a culturally and legally disadvantaged group. It provides insight into the discursive battles that occurred throughout the nineteenth century and beyond over how to write California history and how to understand the process of racialization that reduced Mexican American landowners to a marginalized working-class group in the span of a few decades. Because of the contradictions in her ideological investments, scholars have sought to decipher where Ruiz de Burton stood on political issues ranging from her sympathy for the defeated Confederacy to her support for Maximilian's brief monarchy in Mexico.<sup>11</sup> This critical enterprise highlights the challenges of seeking a nineteenth-century origin for Chicana/o studies but also provides opportunities to complicate our understanding of nineteenth-century discursive contests over race.<sup>12</sup> In my conclusion, I will return to this critical debate to suggest that Ruiz de Burton's contradictory subject position must be understood in terms of a *process* that, due to her changing social and economic status over many decades—from well-connected wife of a US brigadier general to indebted widow, for example—allowed Ruiz de Burton to inhabit multiple registers simultaneously. A critical lens focused on process emphasizes the shifting claims and representations that constitute racial categories as well as legal claims to property. The way these shifting claims traverse genres demonstrates why we must track fictional and nonfictional representations of Californio dispossession in dialogue with each other.<sup>13</sup>

Ruiz de Burton's novel exemplifies a rhetorical context in which none of the contenders stood on solid legal ground, and thus the conflict was particularly fruitful to intervention by rhetorical appeals. In a contest over land rights that was as much ideological as it was legal, Ruiz de Burton and other writers entered into this

negotiation using various genres, both fiction and nonfiction, because they believed the words used to describe the contest and its contenders could affect its outcome. At the same time, those engaged in this contest did not stick to one legal domain or set of precedents, as seen by Ruiz de Burton's adoption of certain Anglo American assumptions and the Anglo American settlers' revision of their own precedents. For example, since raising livestock had long been considered an improvement in the Anglo American legal tradition, the centuries-old definition of improvement had to be adapted to exclude cattle ranching before it could be used to justify dispossessing the Californio ranchers. The establishment of an Anglo American legal tradition in California's contested geopolitical space depended on mapping the rhetorical logic of improvement onto the physical features of the landscape, a feat achieved and resisted in nineteenth-century print culture.<sup>14</sup>

### **Cattle or Wheat: Vacancy, Waste, and Improvements**

In order to combat the narratives being written to justify Californio dispossession, Ruiz de Burton situates her protagonists within the ideological assumption that "improving" the land's capacity to produce gives one a claim to ownership. Scholars have noted that Ruiz de Burton adopts the discourse of industry and productivity in her private correspondence, suggesting her personal investment in this ideology, but she also understood that these concepts were highly persuasive to her Anglo American audience and performed this discourse strategically in her novel.<sup>15</sup> As historian Patricia Seed explains, "The idea that agricultural activity signified possession has a distinctive English history," one that Ruiz de Burton clearly understood and sought to use to convince her Anglo American audience of the legitimacy of Californio property rights (31). In the Anglo American legal tradition, improvement included actions such as building a permanent residence, putting up fences, growing hedges and gardens, raising domestic animals, using fertilizer, plowing, and planting crops. English colonists imagined their right to occupy the North American continent in terms of these actions, and as the Anglo American legal tradition developed in the United States, these acts counted as a legally valid way to stake a claim to

land, a legal principle that was especially endorsed and encouraged in the federal homesteading acts that gave public land to settlers who made improvements. Ruiz de Burton sought to coopt the rhetorical power of this discourse.

Early definitions of “improvement” ensconced the word in the cultural assumption that uncultivated land was wasteful: “The making of land more valuable by cultivation or development; (in early use) *spec.* the enclosure and cultivation of wasteland or unoccupied land” (*OED* 2.b). Improvement was imagined as a means of creating property, referring to “a piece of land made more profitable by enclosure, cultivation, the erection of buildings” (*OED* 2.a). By this logic, improvement, enclosure, waste, and cultivation were a cluster of ideologically loaded terms that allowed English colonists to articulate claims to Indigenous land. As seventeenth-century New Englander John Cotton justified colonialism, “in a vacant soyle, hee that taketh possession of it, and bestoweth *culture* and *husbandry* upon it, his Right it is” (qtd. in Seed 30). Likewise, colonial leader John Winthrop asserted that land “which lies common and hath never been replenished or subdued is free to any that will possess and improve it” (qtd. in Seed 31). The idea that improvement confers title to land continued to resonate in the nineteenth century and to have a specific legal meaning throughout the United States’ history of territorial expansion.

In *Squatter*, Don Mariano defends the legitimacy of the Californios’ land grants by appealing to improvement ideology. The purpose of these grants, he says, was “to give large tracts of land as an inducement to those citizens who would utilize the wilderness of the government domain—utilize it by starting ranchos which afterwards would originate pueblos or villages” (163). Along these lines, Mariano attempts to resolve the conflict with the squatters by proposing a mutually beneficial economic plan. He attempts to persuade the squatters that their homesteads will be more productive if they switch from wheat to cattle:

Yes, I may say, I feel sure, it is a mistake to try to make San Diego County a grain-producing county. . . . This county is, and has been and will be always, a good grazing county—one of the best

counties for cattle-raising on this coast, and the very best for fruit-raising on the face of the earth. God intended it should be.  
(87)

Don Mariano builds his argument upon the assumption that he and the squatters both want to make the land as productive as possible. When the squatters maintain their position that wheat is more lucrative, the conflict boils down to who knows how to make the land most productive. The issue of who has the strongest ownership claim is contested within the shared assumption that “improvement” gives one title to property, but the contest plays out in terms of competing articulations of knowledge about how best to utilize the land. (This contest continues to this day, as seen for example in Priscilla Ybarra’s argument that US imperialist attitudes in nineteenth-century California ignored the valuable ecological knowledge that could have been gained from cooperation with Mexican American ranchers and farmers [137].<sup>16</sup>)

Don Mariano claims an ahistorical permanence to his land rights based on his belief that the land “is, and has been and will be always” good for ranching (87). Ruiz de Burton highlights his regionally specific knowledge to make him the authority on how best to use California lands, which, due to irregular rainfall, requires mixing farming and cattle ranching. As Tereza Szeghi has noted, Ruiz de Burton’s depiction of the squatters’ ignorance of California’s climate signals “the tenuousness of their land claims,” while Don Mariano’s “familiarity with the land is a prerequisite for correctly identifying the use for which it was designed” (104).<sup>17</sup> In order to undermine the Californios’ claim to authoritative local knowledge, Anglo American writers revised the improvement theory then in operation. During early US colonial history, improvement included activities done on the land, such as grazing domestic animals. For example, one colonist wrote that he found “no better way to improve [estates] than to set upon husbandry” (Seed 25). Within this tradition, cattle ranching counted as an improvement that would mark one’s claim and establish title. But in numerous nonfictional accounts of California agriculture, Anglo American authors invalidate the idea that raising cattle counted

as an improvement in order to justify Californio dispossession. In their revisions of improvement ideology, raising cattle instead falls into the category of waste.

Anglo American writers strove to overwrite Californio claims to expert local knowledge and productive industry by producing a version of California history that imagined ranching as a failed industry of the past. Popular narratives about California written by Anglo Americans, such as Helen Hunt Jackson's *Glimpses of Three Coasts* (1886), portray the Californios as irresponsible stewards of a bountiful land. While Ruiz de Burton's *Squatter* is often compared to Jackson's novel *Ramona*, placing *Squatter* in dialogue with Jackson's nonfiction reveals that Ruiz de Burton's novel competed with historical explanations that described the Californios' dispossession as part of the inevitable development of California's agricultural industry.<sup>18</sup> In *Glimpses of Three Coasts* Jackson naturalizes the transition from cattle ranching to farming as the result of the climate, an account that effaces geopolitical forces: "The history of the industries of South California since the American occupation is interesting in its record of successions,—successions, not the result of human interventions and decisions so much as of climatic fate, which, in epoch after epoch, created different situations" (7). The dispossession of the Californios due to US legislation and homesteading disappears from this account into a depoliticized appeal to "fate." Jackson goes on to dismiss cattle ranching as an inferior industry—"The history begins with the cattle interest; hardly an industry, perhaps, or at any rate an unindustrious one" (7)—as she laments the industry's "reckless" waste of herds of cattle "beyond counting" (8). When Jackson depicts the ranching industry as wasteful, she implies that the Californios do not deserve the land: "The cattle wealth . . . was most wastefully handled. . . . Kingdoms full of people might have been fed on the beef which rotted on the ground every year" (8). Her use of the term "kingdom" associates ranching with antiquated, prerepublican political systems like feudalism. Jackson's version of California history justifies the Californios' decline as a result of the irresponsibility of "unindustrious" rancheros who "grew careless

and profligate” (8). Jackson’s narrative ideologically clears the land for Anglo American possession by invalidating the Californios’ agricultural model as wasteful and unproductive.<sup>19</sup>

Ruiz de Burton’s account recasts blame onto the squatters’ wastefulness and inscribes California history with geopolitical forces. Ruiz de Burton describes how Californios struggle to preserve the land’s wealth against the squatters’ inefficiency:

For every ten acres of cultivated land (not fenced) there are ten thousand, yes, twenty thousand, entirely idle, useless. Why? Because those ten acres of growing grain must be protected. . . . Is it not a pity to kill the poor dumb brutes, because we can’t make them understand the law, and see the wisdom of our Sacramento legislators who enacted it? And is it not a pity to impoverish our county by making the bulk of its land useless? (88)

Ruiz de Burton’s fiction counters Jackson’s history by emphasizing the role of specific laws. In Ruiz de Burton’s account, the land lies “idle” and “useless” because the relatively insignificant grain crop stifles the more lucrative cattle industry. Both Jackson and Ruiz de Burton rhetorically construct claims to the land by accusing others of waste within the ideological assumption that “improvement” creates the strongest legal claim.

New York journalist and editor Charles Nordhoff produced the popular guidebook *California: For Health, Pleasure, and Residence* (1873), which similarly dismissed and racialized the Californios’ agricultural practices as based in “superstitions” (119). Published by Harper & Brothers in New York, the guidebook was marketed to encourage settlement on the west coast. In the chapter “The Agricultural Wealth of California,” Nordhoff proclaims the land’s productivity for growing wheat. With “the finest climate, the most fertile soil,” settlers could expect yields “from fifty to eighty bushels of wheat per acre” if only they could conquer the “many superstitions which asserted the unproductiveness or the limited productiveness of California” (118–19). Nordhoff promotes the “adventurous farmer” who continually “discover[s] some new product for which the climate and soil are specially adapted” (119).

In Nordhoff's account, productivity appears as a "discovery" made by the settlers, while the Californios' knowledge is dismissed as "superstition."

Anglo American settlers believed in an agrarian myth that promoted the ideal citizen as the independent yeoman farmer (Hofstadter 23–31). As historian Paul Gates describes these assumptions, settlers believed it was "one of the fundamental rights of Americans to enter upon the public lands, make improvements, create a farm, and eventually acquire ownership free or at a modest price" (5). These settlers, as Gates describes it, disliked the idea that "some seven hundred individuals would be permitted to monopolize thirteen or fourteen million acres without appreciably improving or utilizing them" (5). The improvement ideology seen here takes for granted that ranching does not count as "improving or utilizing" the land, a divergence from the seventeenth-century English understanding of the term. Part of the explanation for this divergence can be found in the rise of the agrarian myth of the yeoman farmer, which prioritizes small holdings as ideally suited for republican democracy.

Nordhoff, attempting to reconcile his assertion of wheat's lucrative yield with the failure of many wheat farmers, explains their failure as a deviation from the yeoman farmer ideal. Nordhoff cautions against the large land holdings that resemble the rancho: "I advise farmers from the East to be content with small farms of from eighty to at most two hundred acres. The rage for large possessions has been a curse to the farmers of this State . . . nor is it rare for their owners to be ruined by losing a crop" (130). Nordhoff promotes the idea of the modest farmer "content" with his share of the land, in opposition to the farmer who acquires too much and begins to resemble the rancheros. Nordhoff's recommended strategy, however, echoes the diversification Don Mariano promotes in *Squatter*:

I am certain that an industrious farmer who cultivates one hundred and sixty acres in the San Joaquin Valley, who plants orange and almond and olive orchards on twenty acres . . . will be worth more money at the end of ten years, and have a more valuable place besides, than his neighbor who has ten times as much land and has raised wheat only. (130–31)

Like Don Mariano, Nordhoff warns settlers against relying primarily on wheat. However, Nordhoff's guidebook produces an Anglo American claim to superior knowledge by first rejecting the Californio model, then recreating this knowledge as an Anglo American discovery.

Competing claims about California's agricultural potential circulated not just in the print culture of the eastern metropolises of New York and Boston but at the regional level as well. Articles in the local *San Diego Union* newspaper reveal the operating assumptions of the Anglo American settlers who chose to relocate to the west coast in pursuit of the agricultural abundance Jackson and Nordhoff describe. An article published in 1868 promotes the region as well suited to growing wheat: "This part of the County is well adapted to raising corn, potatoes, and all kinds of vegetables. Wheat and Barley do well here, also the grape; though the latter, has not been planted to any great extent."<sup>20</sup> This article, "Letter from Jacum Valley," reveals the ideological assumptions at work within the Anglo American settler population: "Some families have recently moved in from Texas, and settled here. Some have located in the vacant Valleys: while, others have bought places with some little improvements on them." These settlers' belief in their right to the land rests on the interrelation between "vacancy" and "improvement." By defining "vacancy" as the absence of crops, they invalidate ranching as legitimate use of land.

In her novel, Ruiz de Burton depicts these assumptions as misleading the Anglo Americans who settle on Don Mariano's land. The white squatter Darrell originally moved west believing "there was plenty of vacant government land" but lost his first homestead when the original owner's title was confirmed (139). When Mrs. Darrell asks about "the condition of the title" on the land her husband has claimed in San Diego county, her son Clarence responds, "I suppose the land is vacant," but again they are mistaken (75). Ruiz de Burton reinterprets the ideology of vacancy as a potential pitfall against legitimate ownership and as a danger to Anglo American settlers. Immersed in the idea of vacancy, the settlers imagine that an absence of "improvements" translates into an absence of ownership, an assumption that leaves

them vulnerable to the way property was renegotiated in court, the same way Californios were vulnerable to unsettled titles. As Don Mariano says sympathetically, “there have been cases where honest men have, in good faith, taken lands as squatters, and after all, had to give them up. No, I don’t blame the squatters; they are at times like ourselves, victims of a wrong legislation, which unintentionally cuts both ways” (74). Imagining law as something that physically “cuts,” Ruiz de Burton evokes the slippage between abstract legal ideals and the material costs of mapping these ideals onto the land.

### **Mapping Law onto the Land: The Material Ideology of Fencing**

As inheritors of Locke’s vision of title derived from labor and “improvements,” the settlers in *Squatter* stake their claims through physical structures that nonetheless serve an ideological purpose. One highly disputed type of improvement, fencing, takes center stage in Don Mariano’s argument that the newly imposed US laws discriminate against the Californios. While Locke imagined a figurative enclosure created through labor, the literal existence or absence of fencing could make or break the fortunes of a rancher. The 1874 No Fence Law shifted the burden of fencing from farmers to ranchers by allowing squatters to corral stray cattle and charge the owner for their keep. Ruiz de Burton argues that this law will not protect agriculture, as it claims, but rather will destroy a prosperous industry: “Now any one man, by planting *one acre* of grain to attract cattle to it, could make useless thousands of acres around it of excellent grazing, because it became necessary to drive cattle away from the vicinity of these unfenced fields” (77). Using fencing to establish individual ownership was a long-standing Anglo American legal tradition. However, the No Fence Law reversed this principle by declaring that farmers did not need to enclose their fields. The law’s transformation of fencing from a sign of ownership to an impossible expense is another example of how Anglo legal traditions were adapted in nineteenth-century California to better serve US imperialist designs.

In Ruiz de Burton’s novel, squatters declare fencing an impossible expense, and their failure to fence signals their inability to properly employ the land. When Darrell proposes fencing instead

of killing the cattle, he admits that fencing creates a financial burden. "I suppose fencing would be too expensive," Darrell says, and his fellow squatter Matthews exclaims, "Phew! It would be ruinous, impossible" (71). The prosperous white farmer Mechlin, however, "fenced a hundred acres the first year, and he never sows outside, so that he's not at all troubled by the Don's cattle" (72). Mechlin's fences eliminate the conflict of interest between wheat and cattle. Because the Anglo American legal tradition prioritized displaying ownership through physical signs like houses and fences, Ruiz de Burton evokes the idea that fencing resolves conflict in order to depict the squatters and the No Fence Law as betraying this ideal.

Fencing was crucial to the British colonial project. New England's seventeenth-century colonial officials required settlers to put up fences (Seed 21). As William Cronon writes, the fence "to colonists represented perhaps the most visible symbol of an 'improved' landscape" (130). This concept emerged in medieval England when fixing a boundary (hedge or fence) became a commonly understood practice for acquiring property. With the enclosure movement's creation of individually owned land plots in the sixteenth century, fences became crucial in marking (and to a large degree, creating) private property. During British colonization, enclosing land with a fence signaled that one intended to establish a permanent claim (Seed 20). This principle was reversed in nineteenth-century California to allow settlers to avoid the expense of fencing their fields. Although the legal principle of improvement was used repeatedly to justify US imperialism, it was not applied consistently.

The late nineteenth-century debate surrounding the legislation of fencing, as a means of marking the land both physically and ideologically, evokes the problem of how to visualize and display abstract legal claims upon a physical landscape. Ruiz de Burton's novel reveals that we must locate the conflict over land claims within the discursive practices that imagine how law becomes mapped onto physical space. In her opening scene, while Darrell and his wife, Mary, discuss their plans for locating in Southern California, they stumble over the problem of the immateriality of marking and recording land. Mary begs her husband not to locate on a Mexican grant unless he buys the land from the owner. "And how am I to

know," Darrell retorts, "who is the owner of a rancho that has been rejected, for instance?" (57). His question speaks to the disconnect between a title's legality, only made material in the form of documents, and the physical reality of unmarked space. Mary refers him back to the legal sphere as a means of marking the land: "If the rancho is still in litigation, don't buy land in it, or if you do, buy title from the original grantee, on fair conditions and clear understanding" (57). What Mary asks for is a contract, described in terms that imagine a contract as ensuring equitable exchange. As legal scholar Amy Dru Stanley has shown, the nineteenth-century United States idealized the contract as a means of freely consented, egalitarian exchange. As Ruiz de Burton understood, the US legal system highly privileged the contract as a means of imagining legitimate ownership. However, as Darrell points out, one cannot see contracts when one looks at the land, which creates a condition in which improvement ideology takes on a stronger legal power. If one cannot see contracts on the land, this logic goes, one needs "improvements" that mark ownership all the more visibly.

The US legal system's demand for the formal documentation privileged within contract theory, a departure from the Mexican land grant system, disadvantaged Californio land owners who had previously enjoyed a legal context in which land rights were based on mutual agreements and understanding among local parties. Darrell wants to know how he can access the information that turns an abstract claim into a legal reality. "I saw the book, where the fact is recorded. Isn't that enough?" he asks, and Mary replies, "Yes, if there has been no error" (57). Put differently, Darrell asks how one can see land rights. Mary's equivocation about recording error, which proves to be correct concerning the Alamar ranch, suggests the impossibility of an accurate phenomenology of land rights within the US system. Where can land rights be found, if a recording error or a legal technicality is enough to reignite the lengthy and costly litigation process? The US legal system in California greatly increased the abstract nature of property rights by sending every land grant title to court, a procedure that benefitted Anglo American settlers because Mexican land grants

stood on less solid legal ground when considered within the strict requirements demanded by US contract law.

Considering the abstract nature of property rights and the textual nature of legal title, against the physical possession of land, the conflict centered on a symbol that bridged these divides: the fence. Darrell and Mary's conversation reminds us that a debate that struggled to find the means to imagine legitimate property rights and then physically demarcate them on the land can only be understood through the discursive elements that make physical objects like fences legally meaningful. When Darrell locates his claim, his concern not to "jump" someone else's claim returns to the problem of how to map abstract property rights onto physical space. When Darrell asks if anyone has already located there, the squatter Pittikin says, "I reckon nobody is located here, and if they *done it*, why don't they leave stakes? They leave no stakes, no notice to settlers; they can't make any row if somebody else takes the land" (73). According to this logic, only a physical marker on the land gives one the right to claim ownership. Darrell, expressing his desire to act fairly, turns to another means of recording what occurs: testimony. "I want you all to bear witness," he says to the other squatters, "that I found no stakes or notices of anybody" (73). In this way, Ruiz de Burton depicts Darrell, one of her more sympathetic squatters, acting according to the Mexican legal tradition of establishing a common understanding within the community. Darrell's problem here is that he does not yet understand Don Mariano to be a part of his community, but later in the novel he sees the error of his ways and becomes one of the Don's allies.<sup>21</sup> For Ruiz de Burton the procedure of staking a claim with physical markers should also involve the oral act of gaining the community's consent.

Within the US legal system, Mexican land grant owners became doubly vulnerable because contract law's strict standards of documentation made their titles dependent on properly adhering to formal textual requirements, but US land policy also functioned according to the assumption that the absence of physical markers made land available for the taking. This double standard provided

Anglo American settlers with the legal grounds to contest Mexican land claims using either of these arguments. After the squatters “mark the limits and put the corner stakes” of Darrell’s claim, the disreputable squatter Gasbang invokes these actions’ legally binding meaning. “This is what I call business,” Gasbang says, “and all inside of the law. That is the beauty of it—all perfectly lawful” (73). The spatial metaphor Gasbang uses to imagine the squatters being “inside” law elides and obscures the difference between legally confirmed ownership (which they do not have, since the title is being contested in court) and the act of putting up stakes, which nonetheless did carry significant legal power in the US system. As Ruiz de Burton writes, “The stakes having been placed, Darrell felt satisfied. Next day he would have the claim properly filed, and in due time a surveyor would measure them. All would be done ‘according to law’ and in this easy way more land was taken from its legitimate owner” (73). Ruiz de Burton uses her novel to exert the Californios’ claim to legitimacy against a legal process that translates physical markers like stakes and fences into ownership. Although Vincent Pérez has argued that fencing functions in *Squatter* as a symbolic boundary that protects the Californio community by “separat[ing] the ‘inside’ Californio community of ‘ordered space’ from the outside threat of disorder embodied by the squatters,” I argue that the legal discourse on fencing ultimately served Anglo American ideological purposes because fencing marks upon the land the Anglo American spatial imaginary of small individual holdings (39). The No Fence Law served to protect the squatters’ agricultural model at the expense of the ranching industry.

Through the No Fence Law settlers deployed the rhetoric of needing “protection” against roving cattle to impose crippling financial burdens on ranchers. Like Jackson and Nordhoff’s late nineteenth-century travel narratives, more recent twentieth-century histories demonstrate the longevity of racialized depictions of Californios as unproductive. Historian John Ludeke tells the story of “vicious,” “fierce and aggressive” cattle that threaten productive farmers and their crops (109, 100). Ludeke describes the No Fence Law as a “symbol of economic change” within a prog-

ress narrative similar to Jackson's (99). The local newspaper *Kern County Weekly Courier*, representing the settlers' view in the 1870s, described the law as "a new era in our history" and "our first real advance in population, improvement and wealth," language that dismisses the Californio ranching industry as an impediment to progress (qtd. in Ludeke 112). Subscribing to and reproducing the progress narrative he finds in these historical sources, Ludeke repeatedly describes the white settlers as the "numerical superiority" to imply their democratic right to determine legislation (99).

As we have seen, the Anglo American progress narrative in which a superior industry replaces an inferior one relies on competing claims about who possesses authoritative local knowledge. Ludeke describes the settlers' experiments to determine scientifically the best agricultural model: "And the settlers did come, planting a surprising variety of crops in an attempt to determine what would grow best in the distinctive geography and climate of the San Joaquin Valley" (102). In contrast, Ludeke says that ranchers, when faced with the "apparent" "logic" of the No Fence Law, were "wont to fall back on the reasoning that the land was good for nothing better than grazing" (106–08). Ludeke declares the settlers' production of local knowledge to be authoritative and definitive: "When the farmer came along, settled, raised crops, and proved that assertion false, the cattleman was left with little practical and no legal ground to stand upon" (107). Local print culture played a role in validating the settlers' agricultural claims. Ludeke unwittingly reveals how the political power of print culture mustered behind the settlers when the *Courier* "became a major spokesman for the interests of the farmer" (106). The *Courier* reproduced improvement ideology's assertion that the settlers would turn "vacant lands" into wealth for the region (qtd. in Ludeke 106). In 1871 the paper's editor argues, "It has been found that our vast plains and fertile valleys can be put to a much better use than to merely afford pasturage for droves of wild horses and cattle. Experience has shown that these lands are well adapted to the production of grain" (qtd. in Ludeke 106). Reproducing the Lockean ideology of vacancy, the *Courier* and later historians elide the history of prior possession. The point here

is not only that Ludeke's account reproduces a racialized version of history but that his reliance on primary sources written by local Anglo Americans fails to recognize the rhetorical contest in which these newspapers participated. Taking the *Courier's* reporting at face value, Ludeke fails to see the political intervention its articles were making at the time. This oversight demonstrates the necessity of applying methods of literary analysis to nonfictional sources.

The legal debate surrounding fencing worked to secure Anglo American economic interests and to reimagine racial boundaries. Ludeke concludes by turning the fence into a metaphor: "The cattleman was not defeated by the farmer in the 1870s; he was simply fenced in" (115). This metaphor suggests a cultural shift in the meaning of the fence—from protection to exclusion. Under the No Fence Law, fencing would contain and keep out the "dangerous" ranching industry (Ludeke 109). The *Courier* made a similar assertion in 1871: "'Fence' means the old order of things . . . while 'no-fence' means that the stock raiser must fence in his cattle and confine them to a stated and, of course, comparatively narrow domain" (qtd. in Ludeke 109). This language demonstrates the way the fence took on a symbolic function to exclude Mexican Americans from economic opportunities and to promote the racialized progress narrative in which dispossessing the Californios cleared the way for new industries and economic prosperity.

Anglo American legal practices for demarcating claims to physical space, which stretch back to the sixteenth-century enclosure movement in England, developed with increasing urgency as settlers used these practices—often in contradictory ways—to justify their claims to North America. As the United States extended its vision of national identity into new territory, the Homestead Act and legal traditions designed to promote possessive individualism promoted the agricultural model of the small, independent farmer. The Homestead Act created a new spatial imaginary by dividing the land into individual family plots, a geographical abstraction oriented toward recreating American legal traditions.<sup>22</sup> The spatial imaginary promoted by the Homestead Acts, in which an individualized amount of land signals the democratic ideal and individual participation in the market economy, clashed with the history of Mexican land grants that covered a very large amount of land in or-

der to foster entire new communities. When we locate the conflict over land rights within the discourses that constructed competing spatial imaginaries, we come to understand the impact of narrative on our perception of physical reality.

Despite the professed ideal of small, independent farmers, the Homestead Act actually promoted rampant speculation by large land companies. As legal historian Lawrence Friedman explains, the Homestead Act was more idea than reality and failed to achieve its purported goal of supporting individual farmers (313). Most homesteaders bought their land at a reduced price before the five-year waiting period had elapsed, then resold the land, usually to land speculators who consolidated it into large holdings (313). This pattern, Friedman argues, “casts doubt on the idea that aid to the actual settler was ever really the guiding principle of public land law. Land law used the image of the sturdy farmer for slogans and propaganda” (313–14). In order to address this issue, Ruiz de Burton’s novel shifts into a critique of railroad corporations, which received huge land grants from the US government at the very same time that homesteading ideology was used to accuse the Californios of having too much land.

### **Print Culture and the Rhetoric of Excess**

Ruiz de Burton’s own struggle to secure title to two contested land grants, Jamul and Ensenada, brought her into a public sphere in which the mainstream press depicted her land as an excess of wealth that contradicted democratic ideals. Her fight for Ensenada, which she continued until her death in 1895, brought her into conflict with the international land company that had claimed and resold the land in question. An 1888 *New York Times* article describing the Ensenada lawsuit presents Ruiz de Burton as a threat to democratic ideals and the agrarian myth of the yeoman farmer. Titled “Millions Involved,” the article focuses on the enormous monetary value of the land in question and pits Ruiz de Burton’s claim against the welfare of modest individuals: “If Mrs. Burton’s claims are allowed, all of the titles issued by the International Company will be null and void, and thousands of small settlers and investors will be ruined.”<sup>23</sup> The metropolitan, East coast press represents Ruiz de Burton as a

tycoon attempting to squash the prospects of “small settlers.” The article undermines Ruiz de Burton’s claim by pitting her against the agrarian ideal encoded in “small settlers,” while in fact a large corporation bought and resold the land. The democratic rhetoric of “thousands of small settlers” depicted the Californios as having more wealth than they deserved.

In *Squatter* Ruiz de Burton draws attention to the hypocrisy by which Anglo Americans used the rhetoric of excessive wealth to invalidate Californio land claims while the US government granted vast land to the railroads.<sup>24</sup> As Alemán has argued, Don Mariano counters the Anglo American argument that a few people should not own so much land by pointing out that the US government grants millions of acres to railroad companies in a similar form of consolidated wealth (“Citizenship” 18). In a conversation between Mariano and his future son-in-law Clarence, Mariano paraphrases the squatters’ argument: “the cry was raised that our land grants were too large; that a few lazy, thriftless, ignorant natives, holding such large tracts of land would be a hindrance to the prosperity of the State, because such lazy people would never cultivate their lands” (162). This passage demonstrates the racialized rhetoric underpinning the argument against large landholdings. Mariano explains how Anglo American settlers use the discourse of productivity to transform the large size of Mexican land grants into a sign of “waste”: “Such good-for-nothing, helpless wretches are not fit to own such lordly tracts of land. It was wicked to tolerate the waste, the extravagance of the Mexican Government, in giving such large tracts of land to a few individuals” (163). As Ruiz de Burton shows, the racialized rhetoric of productivity reclassified any large Mexican land grant as an “extravagance.” Mariano exposes the hypocrisy by which the US government takes land away from the Californios “on the plea that such large tracts of land ought not to belong to a *few* individuals,” then “gives to railroad companies millions upon millions of acres of land” (163). As Alemán says, Mariano “reverses the usual stereotypes that distinguish Spanish/Mexican colonialism’s ‘foolish extravagance’ from the virtuous industriousness of [Anglo Americans]” (“Citizenship” 18). Ruiz de Burton’s critique of the excesses of railroad monopolies, which

dominates the novel's second half, serves to prove that US federal land policy reproduces the undemocratic consolidations of wealth that it claims to oppose. Furthermore, Mariano explains that the large size of the Mexican grants was a "wise" and "judicious policy" because they were designed to foster entire new communities (163).<sup>25</sup>

The *New York Times* article emphasizes Ruiz de Burton's elite status to depict her as a threat to small farmers. Emphasizing her elite status as someone who possessed a "commanding presence," was "as well known in Washington as in San Francisco," and who "made a sensation in social circles," the *Times* depicts Ruiz de Burton as an aristocrat who sought to secure wealth for herself at the expense of modest settlers, placing her in conflict with the independent yeoman ideal. Her representation in the national press, exemplifying the same ideology deployed in Jackson and Nordhoff's travel narratives, presented Californio dispossession as the victory of enterprising individuals pursuing land through their own labor. Concluding with the statement that Ruiz de Burton's novel "bitterly satirized some of her enemies," the *Times* article dismisses her novel's political and social critiques as personal invective and reduces her novel's aesthetics to a monolithic "bitter" style.

The reconceptualization of how one could articulate a claim to California soil required a production of knowledge that was both ideological and material, in that sites of literary production—publishing houses and urban markets—helped Anglo American writers impose their spatial imaginary on the land. The various narratives that fought to define California history were bound to the material circumstances of each text's production and circulation. The Anglo American narratives received wider publication and reception, a position from which they could exert a stronger sway on the national imagination.<sup>26</sup> Ruiz de Burton's novel was published locally in San Francisco at her own expense. She did not have the backing of a major publisher, and although local reviews were favorable, the book was not well promoted and fell out of circulation until its recovery in the 1990s.<sup>27</sup> In contrast, Jackson and Nordhoff's texts received the attention of major publishers in Boston and New York. Within the discursive contest between competing legal tradi-

tions and property conceptions that were articulated in fiction, histories, and travel books, Anglo American accounts benefited from greater access to the material resources of the publishing industry.

Ruiz de Burton's marginalized fiction operates within the Anglo American ideological assumption that improvement, cultivation, and efficient use create title to land, in part as a strategy to appeal to her audience. However, Spanish and Mexican colonization in the region had at times used a similar logic of improvement to dispossess Indigenous peoples. While the Spanish and Mexican legal tradition did not derive from Locke or codify Locke's definition of property as the British common law did, it nonetheless echoes some similar concepts.<sup>28</sup> For example, when Mexican citizens Carlos Beaubien and Guadalupe Miranda petitioned New Mexico's governor in 1841 for what would become known as the Maxwell Land Grant, they argued that the natural abundance of the land was going to waste; "New Mexico is one of the most backward in intelligence, industry, [and] manufactories," they wrote, "the fertility of the soil, containing within its bosom rich and precious metals, which, up to this time, are useless for the want of enterprising men, who will convert them to the advantage of other men" (qtd. in Montoya 30). This ideology can be seen in the Mexican Colonization Law of 1824, upon which the Californio land grants were based, which promoted settlement in areas that were conflict zones with Indigenous peoples by rewarding new arrivals with land (Menchaca 181–83). While the Colonization Law did require newcomers to make improvements, the law was designed to promote the formation of communities and military outposts to facilitate suppressing Indigenous resistance rather than to promote the yeoman farmer ideal of the agrarian myth.<sup>29</sup> In California, during the secularization of mission lands in the 1820s and 1830s, the Mexican government reinstated laws that declared all lands not parceled out to families or townships as vacant and available for redistribution (181). In this way, we see the history of European colonialism converging on a set of legal principles that dispossessed Native peoples. Ruiz de Burton and the Californios experienced how these same principles could be turned against them. Ruiz de Burton's novel engages with a rhetorical context that does not have clearly defined insiders and

outsiders but operated across colonial discourses in sometimes divergent and sometimes convergent ways. Ruiz de Burton worked within these discourses just as often as she challenged them.

Twentieth-century histories continued to position the Californios within a discourse of productivity that racializes Mexican Americans as undeserving of the land. For example, historian Paul Gates refers to the absence of fences and what he describes as the land's underutilization to dismiss Californio claims: "None of the claims were fenced, few had identifiable marked boundaries or discernible corners, and most were used very lightly for grazing" (4). Gates goes on to describe "the careless manner in which owners had handled their titles" and describes the Californios as failing to adhere to improvement ideology: "Many claims were so devoid of improvements or signs of ownership that immigrants swept over them, selecting sites and building homes without any knowledge that they were on private claims" (28). Gates produces a version of history in which the Californios, not Anglo American legislation, are to blame for their lost lands and describes the decline of Mexican American landowners in strikingly racialized terms: "Mexicans or native Californians . . . had less regard for land ownership than did Americans, less foresight, little realization of the increase in land values that might occur. They lived extravagantly, were hard hit by taxes and drought, borrowed on their claims, showed little of the concern for their obligations that mortgage-ridden Americans felt" (15). That Gates perpetuates these racialized stereotypes in his history demonstrates that the discursive battle in which Ruiz de Burton engaged continues to this day and demonstrates why Ruiz de Burton believed it was crucial to engage with nonfictional discourses such as law and history. Like the travel narratives of the late nineteenth century, Gates recasts the conflict in terms of a progress narrative that accuses Californios of underproductivity: "That numerous Spanish-speaking Californians lost their great ranchos . . . is probably true. Progress meant more intensive use of land" (42). As this example shows, Ruiz de Burton's intervention into the discourse of "improvement" must be studied as entering into a rhetorical contest in which terms like "waste," "vacancy," "progress," "excess," and "extravagance" were deployed

under the assumption that these words would ultimately carry legal weight. The longevity of racialized depictions in historical narratives demonstrates the necessity of critical methods that examine nonfictional forms, such as history, with the rhetorical approach of literary studies.

In conclusion, I would like to return to the critical debate over how Ruiz de Burton fits into Chicana/o literary history despite the fact that she challenges the field's commitments to mestizaje and working-class politics. Ruiz de Burton's contradictory identity requires us to view racial categories and claims to property as concepts that are always in the process of negotiation. During her life Ruiz de Burton transformed from elite to subaltern, while who counted as subaltern was also changing. She becomes an even more productive figure for contemporary study because the difficulty in classifying her speaks to the problem of how to describe the racialized dispossession of the Californios, most of whom were previously colonizers. As Alemán reminds us, the redefinition of the Californios from white to nonwhite reveals that "whiteness is not a natural racial category but a cultural identity marker contingent on class status, labor politics, market capitalism, legality, and public performances" ("Citizenship" 23). We need terms and methods that can acknowledge the constant historical changes that keep reshaping ethnic subject positions, their boundaries of inclusion and exclusion, and the terms used to describe them.

Therefore, Ruiz de Burton's position within Chicana/o history must be understood in terms of the *process* by which she entered the United States as a privileged elite who was nonetheless saying goodbye to her birthplace and native language, reidentified as a US citizen, grew disillusioned with US political corruption and corporate capitalism, nonetheless continued to pursue capitalist enterprises, and ended her life identifying with an increasingly marginalized group that had been transformed into a disempowered minority by US imperialism's combination of political marginalization, legal dispossession, and discursive racialization. Considering that it was the US legal *process* that dispossessed the Californios as much as it was specific laws, a critical approach that views racialization as an ongoing process brings into focus the shifting claims and discursive

representations that produce racial categories. In a similar way, legal claims to property can also be understood as the product of these discursive forces. Ruiz de Burton's intervention into this process gives us the chance to see the discursive operations of racialization at work while the outcome remained uncertain. That Ruiz de Burton was actively intervening in and contesting this process shows that history could have been otherwise.<sup>30</sup> The transformation Ruiz de Burton experienced might serve as a reminder that who counts as an insider in the US has changed over time and those who may appear to be entrenched in wealth may not remain so for long.

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#### NOTES

I would like to thank John González, Matt Cohen, Jim Cox, Gretchen Murphy, and the anonymous reviewers for their thoughtful comments and suggestions as this essay developed.

1. See Rodolfo Acuña, *Occupied America*. As Acuña explains, the California Land Act “by implication, challenged the legality of Mexican land titles. It told land-hungry Anglo-Americans that there was a chance that Californios did not own the land. The squatters then treated the ranchos as public land on which they had a right to homestead” (115). As Rosaura Sánchez and Beatrice Pita explain, even though it appears in the legal record that many Mexican land grants were ultimately confirmed, the original owners were usually forced to sell or foreclose on the land due to litigation costs, debts, and the practice by which lawyers took payment in land (*Conflicts* 99). A California land grant title remained in court an average of seventeen years (Chávez-García 125).

2. See Richard Griswold del Castillo, 62–107, for how the Treaty ultimately undermined Mexican property rights and citizenship. See also Laura Gómez, *Manifest Destinies*, 41–45, 124–25; Chávez-García, *Negotiating*, 123–26; and David Weber, *Foreigners*, 143, 162–68.

3. Scholars have noted Ruiz de Burton's strategy of appealing to Anglo American economic values. John Morán González, Tereza Szeghi, and Elisa Warford have all argued that Ruiz de Burton depicts her Californio characters as entrepreneurs eager to participate in the emergent capitalist economy. Karen Kilcup argues that Ruiz de Burton appeals to readers by depicting her protagonists as modern, progressive, pragmatic citizens (367–72). As Kilcup says, Mariano's “focus on agricultural productivity conveys a concept of progress familiar to eastern readers” (372).

4. See David Langum, *Law*, 3–6, 30–55; María Montoya, *Translating*, 2–5, 75; and David Correia, *Properties*, 5–8. As Correia explains, “the largely fee simple property rubric found in Anglo law collided with the common property relations of Spanish and Mexican law” (5). Montoya argues that “the U.S. legal system could not incorporate the informal property regime that had evolved under Mexican law” (75).

5. See Montoya, 4–5, and Roybal, 27.

6. For the novel’s use of the sentimental mode, see David Luis-Brown, *Waves of Decolonization*. Melanie Dawson situates *Squatter* within the realist genre. Elisa Warford argues that to understand the novel’s persuasive appeals, it must be read as sentimental social protest fiction. Amelia María de la Luz Montes argues that *Squatter* shifts back and forth between realism, naturalism, and romance and employs strategies akin to muckraking (210). Tereza Szeghi suggests that Ruiz de Burton adapted the sentimental genre “to bear the burden of her frequently harsh and satirical political critique” (89). Karen Roybal’s approach treats the novel more like history than fiction, seeing it as the “literary testimonio,” or testimony, of a woman fighting against the loss of her heritage (51).

7. Similarly, John Morán González argues that Ruiz de Burton’s novel provides “an alternative reading of California’s history” that “negotiates multiple layers of colonial histories” and makes visible “the historical contingency of colonial difference” (86–87). Karen Roybal argues that the novel “interrupt[s] the dominant narratives that defined the historical record in California and the Southwest” (61).

8. In the introduction to the recovered edition of *Squatter*, editors Rosaura Sánchez and Beatrice Pita define Ruiz de Burton as “subaltern,” given her position as a woman, a Catholic, a Spanish-speaker, and a member of the colonized Californios, a critical assessment that many scholars have since complicated (10). As Manuel M. Martín Rodríguez explains, during the rise of the Chicano movement in the 1960s and 1970s, a sense of cultural nationalism and the collective experience of marginalization united Chicanos in efforts to articulate claims to the American Southwest based on a common ancestry that predates US settlement (40). Since then, Chicana/o scholars have debated how this collective nationalism minimizes intracultural differences among Chicanos, especially gender and class. As Rodríguez notes, significant class distinctions existed among Mexicans before the US conquest and most of the land lost after the Treaty of Guadalupe Hidalgo was owned by a small elite (41). Numerous scholars have analyzed Ruiz de Burton’s complicity in these structures of power. In “Contradictory Impulses,” José F. Aranda considers Ruiz de Burton’s social connections to elite political figures like Abraham Lincoln and her use of hegemonic discourses, concluding that “early attempts to identify a writer like Ruiz de Burton as ‘subaltern’ were premature . . . because Chicano/a Studies has yet to conceptualize adequately the inclusion of writers and text that uphold racial and colonialist discourses that contradict the ethos of the Chicano Movement” (553–54). Likewise, Jesse Alemán argues that “it is tempting to read her work as part of a genealogy of Chicana literature”

because she critiques US imperialism and national myths like Manifest Destiny; however, Alemán cautions that “Ruiz de Burton’s life and work cannot be easily cast as proto-Chicana” due to her position as an elite landowner and her use of white supremacist discourse (“Citizenship” 4). Amelia María de la Luz Montes, in considering whether Ruiz de Burton should be considered a potential precursor to Chicana literature, concludes that recognizing how Ruiz de Burton was complicit in her era’s structures of power allows us to address our own implication in power structures today and the persistence of class conflicts within the Chicano community (215–16). Rodrigo Lazo explains that “more than any other writer in Hispanic literary history, Ruiz de Burton has come to exemplify the tension between archival formation of Latino studies as a field and the antagonism of political affiliations from the past” (46).

9. Alemán agrees that Ruiz de Burton and her fellow Californios tried to position themselves as white and to “align themselves with the very colonial ideologies that threatened to displace them” (“Citizenship” 23).

10. See Aranda, “Contradictory,” 558; Alemán, “Citizenship,” 23–24; González, 85–106; and Luis-Brown, 35–66.

11. See Aranda, “Contradictory.”

12. See Lazo, “Confederates”; Aranda, “Contradictory”; and Alemán, “Citizenship.” Lazo believes Ruiz de Burton’s position as both oppressed and oppressor has been generative for Chicana/o scholarship because it led to additional research that expanded the archive (47).

13. My approach is indebted to the critical methods proposed by Dana Luciano and Ivy G. Wilson in *Unsettled States*.

14. Throughout the history of US westward expansion, the legal principle by which settlers gained title to land by building improvements was used again and again to justify US imperialism. In the seventeenth century, John Winthrop used the principle of improvement to exclude Native peoples from colonial New England: “And for the Natives . . . they inclose (sic) no land neither have any settled habitation nor any tame cattle to improve their land by” (Seed 39). In the nineteenth century, during debates over the navigation of the Mississippi, settlers argued that their improvements to untamed nature granted them the right to profit from it (Horwitz 94–97). During negotiations over the Louisiana Purchase, the argument circulated that the US “had contributed more to all kinds of improvement than the European states had effected in the colonies subject to them during three centuries” (209). As these debates demonstrate, the language of improvement was crucial to the US imperialist project. Although Indigenous land claims and the legal strategies by which the US dispossessed Indigenous peoples across the North American continent is beyond the scope of this essay, it is important to note that a similar cultural and legal logic of improvement, waste, and vacancy was repeatedly applied by US settlers as they encroached on Native lands and justified conquest with the argument that Indigenous peoples did not properly exploit the land’s resources. For more, see William Cronon, *Changes in*

*the Land*, and Cheryl I. Harris, "Whiteness as Property." As Harris explains, US courts argued that Native peoples had not established possession to the North American continent because they never enclosed it or allotted it to individuals (1722). Drawing on Locke's theory, US courts promoted the idea that "because the land had been left in its natural state, untilled and unmarked by human hands, it was 'waste,' and therefore the appropriate object of settlement and appropriation" (Harris 1721–22).

15. In her letters, Ruiz de Burton describes numerous capitalist enterprises that she seeks to develop and make profitable (Sánchez and Pita, *Conflicts* 239–45). For example, in an 1860 letter to her friend and fellow Californio Mariano Guadalupe Vallejo, Ruiz de Burton describes her plans for a potentially lucrative mining enterprise on her Ensenada lands in Mexico and laments delays caused by disruptions on the border. Ruiz de Burton writes, "Todos los que temenos propiedad allí seríamos beneficiados si capital e industria se introdujesen en el país" ["All of us who have property there will benefit if capital and industry are introduced into the country"] (Sánchez and Pita, *Conflicts*, 243, my translation). Her letters, which frequently include discussions of her plans for investments, have led Rodrigo Lazo to conclude that Ruiz de Burton's "primary concern is economic well-being" (48).

16. Ybarra argues that US settlers in California lost the "significant skills, knowledge, and loyalty" of the resident Mexican population who had worked the land for over a century (136). As Ybarra explains, "This lost repository of knowledge and loyalty becomes ecologically significant when one considers the fact that landholding Mexicans had learned a great deal about how to profitably and sustainably manage their haciendas" (136).

17. Ybarra similarly suggests that *Squatter* depicts Mexican American ranchers attempting to educate the Americans about which agricultural forms work best in California's semiarid climate. However, Ybarra understands Don Mariano's proposal to the squatters as proving the superiority of Californio environmental knowledge, rather than as a rhetorical strategy employed by Ruiz de Burton to convince her readers (142).

18. Scholarship linking *Squatter* and *Ramona* includes Anne Goldman, "I Think Our Romance Is Spoiled"; González, *The Troubled Union*; and Luis-Brown, *Waves of Decolonization*. González considers the two novels to be "literary twins" in that they both use the historical romance genre to represent nineteenth-century social injustices (85). Luis-Brown suggests that both *Squatter* and *Ramona* "deploy the discourses of sentimental melodrama" to represent how race and class impact conflicts over land (35).

19. González briefly examines the way Jackson's *Glimpses of Three Coasts* implies that the natural abundance of the land caused degeneracy in Mexican Californians. For González, Jackson suggests that because Californios did not have to work to make the land productive, they lost interest in industry and intellectual pursuits (86).

20. Accessed at the University of Texas at Austin's Briscoe Center for American History.

21. Scholars have noted that by the novel's conclusion many of the former squatters have allied with the don against the railroad monopolists. Aranda believes that the novel's conclusion places its hope in repentant squatters like William Darrell, who side with the Californios against the railroads ("Returning" 25).

22. In a similar way, the federal policy of allotment, which forced Native Americans to abandon communal property in exchange for individual plots, reorganized tribal space to fit Anglo American ideological designs.

23. Sánchez and Pita, *Conflicts*, 624–25.

24. Most scholars who discuss Ruiz de Burton's critique of the railroads emphasize that she opposed monopoly capitalism because its immorality and greed stifled small entrepreneurs. See González, 101–03; Luis-Brown, 50–51; and Aranda, "Returning." Aranda sees the main form of competition in *Squatter* not as the squatters versus the Californios but as between agrarian capitalism and monopoly capitalism ("Returning" 13). However, because the language of excess was being applied to invalidate Californio property rights, I believe Ruiz de Burton's railroads highlight this double standard. Marissa López has suggested that the novel links dispossession to the railroad's arrival in California, but she argues that Ruiz de Burton's critique serves to show how railroads damage everyone's prosperity, not just Mexican Americans. For López, *Squatter* "participates in the broader anti-rail feeling that swept late-nineteenth-century California" (172).

25. As Alemán rightly points out, however, these settlements came at the expense of Indigenous peoples, and thus Mariano's argument displays a "historical amnesia" that elides the Mexican land grant policy's colonial violence ("Citizenship" 18–19).

26. Kilcup, in comparing *Squatter* to similar western texts like *Ramona* (1884), concludes that *Squatter* had less impact in eastern cultural centers (365). Warford likewise concludes that despite Ruiz de Burton's effective rhetorical appeals to her audience, her limited readership hindered the impact of her social critique (19).

27. *Squatter* was printed by Carson & Co. in San Francisco. The author's personal financing of the project suggests that Carson played a minimal role in the novel's production. For reviews of *Squatter*, see Sánchez and Pita, *Conflicts*, 564–68.

28. To some degree, Locke's *Essay on Human Understanding* impacted scientific thinking in Spanish America, but his political theory in *Two Treatises on Government* was not translated into Spanish until 1821 (Coronado 110–24).

29. For example, the colonization laws for California issued by Governor Don Felipe De Neve in 1779 stated "to make this vast country . . . useful to the State, by erecting pueblos of which people . . . being united, may encourage agriculture, planting, the breeding of cattle and successively the other branches of industry; so that some years hence their produce may be sufficient to provide garrisons of the presidios with provisions" (Rockwell 445). An 1828 addendum to the Colonization Law specified that "vacant lands" be granted to colonists for "the purpose of

cultivating and inhabiting them” and that each colonist must “prove” that he had “cultivated or occupied the land” in order to “consolidate and secure his right of ownership” (Rockwell 453–54).

30. In a similar vein, Raúl Coronado approaches the history of Mexican dispossession and racialization in the Texas region in terms of an imagined future that did not come to pass.

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