

## 2.

# First Settlers

**A**FTER CALIFORNIA BECAME a sovereign state in the American Union, the owners of the Rancho Laguna de la Merced laid claim to the land between the San Bruno Mountain and Lake Merced. Through endless lawsuits they pressed their claims only to meet one delay after another. Indeed, the matter was not settled until 1853 when a U.S. government survey stated that most of the contested land was government property and therefore could be acquired by private individuals.

The declaration swept through San Francisco and all of California, firing the imaginations of men who rushed to take up the land for homes and ranches. The first two to arrive were Patrick Brooks and Robert S. Thornton.<sup>1</sup>

Brooks went to the foothills that were soon to become known as Colma Hills. There he was joined by James Casey, Sr., Michael Comerford, John Castle, Dennis Murphy, Michael Fahey, Patrick Flannelly, John Brooks, Michael O'Riley and two other sons of the frontier named Emerson and McKenna.<sup>2</sup>

Soon other settlers, most of them of Irish extraction, followed the first families to the Colma Hills, the area later covered by portions of Colma and the Westlake and Serramonte sections of Daly City and portions of Pacifica. These settlers established ranches and farms that were soon supplying markets in San Francisco with potatoes and grain.

For more than a decade they prospered. To some settlers it seemed that they had reached a "land of great promise. Some of them, indeed, referred to these farms as Happy Valley. Then came disaster in the form of a decade when the fog that passes over the land grew thicker than usual, leaving the atmosphere damp and dark. The grains of all varieties died in the ground. A severe blight attacked the potato patches, killing vines before the potatoes were produced.<sup>3</sup>

One by one the settlers sold their land and left the area. So many in fact, that by 1877, when the dampness and blight reached the height of their severity, all but a few of the Irish families were gone. Those who remained continued to fight the blight and finally overcame it by importing from Oregon the seeds of a variety of potatoes known as Garnet Chili, which proved impervious to the blight.<sup>4</sup> However, potato raising never resumed its former proportions.<sup>5</sup> Some ranchers turned to cattle raising and dairying, proving both could be profitable when pursued on large tracts of land.

When the settlers, prompted by dampness and blight, offered their lands for sale, they found buyers among the immigrants in San Francisco, especially the Italians.<sup>6</sup> These were people who believed the climate and the soil in the Colma Hills and San Pedro Valley areas were suitable for growing such diverse crops as artichokes and cabbages and even flowers. Because their perseverance and courage were so great their story must be told in a separate chapter of this history of the gateway cities.

As the land in the hills was being developed, so were the acres of flat land between Lake Merced and the Colma region. Robert S. Thornton, who had been the first settler, was soon joined by others. Among them were I.G. Knowles, Peter Dunks, Joe Hill, a merchant named John D. Husing, Frank Pierce and Thomas Harrison.<sup>7</sup>

Caught up in the excitement of the gold rush that started in 1849, these men had come to California from many far flung lands: Dunks and Husing from Germany, Knowles from the state of Ohio.

Robert S. Thornton came from Rhode Island and his wife, Sarah Ann Smith, from Massachusetts. Shortly after their marriage he boarded a ship that sailed around the tip of Argentina; then northward through the waters of the Pacific Ocean to San Francisco. His voyage covered 17,000 miles and required eight months to complete.

Arriving in San Francisco in 1851, he found the harbor filled with ships that had been commissioned for the journey from the eastern seaports of the United States but on reaching San Francisco were deserted by the gold hungry passengers and crew members. The owners of one of them hired Thornton to work as a blacksmith on the vessel as it sailed up and down the San Francisco Bay.

While so employed Robert Thornton read of the results of the survey that opened northern San Mateo County to settlers. Moving rapidly he established a claim, part of it covering the land south of Lake Merced and near the ocean beach that has become a state park bearing his name.

Two years later when he had improved his land enough to establish his claim, he journeyed back to Rhode Island to convince his Sarah Ann that he had found a place to build their home. Apparently, she did not need much convincing for soon they were traveling around the Horn, as Mr. Thornton had done four years before.<sup>8</sup>

Sarah Ann Thornton reported to her granddaughter that she was too seasick to enjoy the voyage.<sup>9</sup> No doubt she was afflicted with the tensions and monotony described in the diaries of passengers who made the seemingly endless voyage in the unseaworthy hulks of the era.

In a piece that he called "A Brief History of Colma's Early Days," Mr. Thornton recorded what seemed to him to be the "most unjust and even infamous litigations that have ever been known in the history of the State of California."



FOG OVER COLMA HILLS



LAKE MERCED FROM THE DALY CITY SHORE



SAND DUNES ALONG THE PENINSULA



ROBERT S. THORNTON, PIONEER RESIDENT

Peace, happiness and prosperity reigned supreme until 1859 when the settlers were suddenly startled by the sight of surveyors encroaching on their premises; trampling down their crops with utter disregard for the rights of the people.

They pretended that our lands belonged to the Laguna Merced Rancho, an almost worthless waste of desolation at the time, while our settlers had cultivated their lands and had fine crops on every acre, all fenced and with good respectable houses, barns and other good improvements.

The government had given us patents to all of these lands, and we felt secure in our rights. We, of course, filed our protests in writing to the General Land Office in Washington, D.C. against the encroachment of our lands, whereupon our opponents began suits of ejectment in the State courts. This necessitated the organization of the settlers in a club called the "North San Mateo Settlers' Union, for the purpose of defending their rights in the State courts in the protection of their homes.

The group selected R.S. Thornton as their legal fighting man to prosecute the cases in the Federal and State courts. A power of attorney was signed by every member of the club, giving Mr. Thornton full power and authority to fight the cases to the best of his ability and judgment for the interest of all concerned and he entered into the hard task of fighting against rich capitalists, who had kicked us off our lands by tricks that were most villainous, for there was not a particle of justice on their side. They merely wanted to steal our lands and proposed doing so regardless of even a sunbeam of decency. Mr. Thornton spent the principal part of six years scouring the country for testimony and attended strictly to the courts and land departments, going back and forth to Washington to look closely into all matters so that our record should not be tampered with in the Supreme Court. The Attorney-General warned him that it was war time in Washington and sometimes it has been known that slick thief writers have tampered with the record papers.

We pledged ourselves to fortify ourselves and fight it out legally first, but if not able to do so legally to defend our rights regardless of the means employed or the consequences.

We asked the court for an injunction to stay the State Supreme Court judgment until the Federal Court had determined the encroachment of the surveys of the Laguna Merced Rancho on our lands. This injunction was denied us and we regarded this as a warning to prepare for war, and we at once secured, through a friend, seventy-five Kentucky rifles, with a four-pounder brass cannon, with

grape and cannister shot and plenty of ball cartridges for the rifles. On my 160 acres, in my barn, we fortified our rendezvous with 400 sacks of potatoes as our fort, with portholes cut in the side walls to fire out if we were assaulted by our enemies. A consultation with Judge Crocket, our main attorney, who advised us that we had better give up possession until the Federal Court had decided the cases. [sic]

As soon as our opponents got the news that we had given up the fight, on the sixth day of June, 1863, they came with the Sheriff and a band of hired roughs from San Francisco, with guns and bayonets. They appeared early in the morning at Mr. Knowles' house and ejected him and his family and left two men in possession with their guns for defense. The next day, the Sheriff was on hand with his gunmen to protect him, and he went to every settler's house and left a gunman in possession of each settler's home, and the settlers were ordered to move out and leave their cultivated crops, which were about ready to be harvested. The value of these crops was an average of about \$1500 on each 160 acres of land.

There was [sic] Messrs. Pierce and Van Winkle, who had acknowledged some lease of the Deharros, who owned some interest in the ranch which the Sheriff concluded not to eject. Therefore, Mr. Pierce's and Van Winkle's places were opened to us for protection. Also, Mr. Charles Clark, who was not ejected, gave us quarters in his place. Most of our settlers, however, stayed near the outskirts of our lands until the Federal Court had determined the cases. Mr. Knowles purchased two acres of land that is now called Hillcrest and built a cow barn and dwelling house which still stands upon that high point.

All this time this villainous war was going on I was pushing our cases in the United States District Court and finally secured a decision by that court in our favor that the new owners of the Ranchos were wrong in encroaching on us, and ordered them to take the old survey of the ranch made in 1853.

This decision left the settlers' land outside of that survey. Soon after that David Mahoney, the man who was put forward by the capitalists in this fight against us, filed affidavits of fraud that they alleged the Government officials and the settlers had perpetrated against their ranch. The court granted a rehearing, and it took about six months to rebut this charge of fraud. The court held there was no fraud proven although reversed its first decision, by altering the survey so it took in most of our lands. The judge announced, however, in the last words of his decision, that it afforded him much satisfaction to feel that the decision was subject to a review by a higher tribunal, where any

errors into which he had fallen would be corrected. This decision was made on July 25, 1863.

I immediately entered an appeal to the Supreme Court of the United States and hired extra clerks to assist the clerk to get the record to the Supreme Court at Washington as soon as possible. I got the record off to the Attorney General's office at Washington by the middle of September and I sailed on the steamer Sonora for Washington on the 23rd of October, 1863, arriving in Washington November 19, 1863. The next day I called on the Attorney General who said he received our appeal record, and that he would send it to the Supreme Court and have it put on the calendar, which I found was done. At this point of the controversy I found Attorney General E. Bates, to be our warm friend, and he remained loyal to us all the way through the fight in the Supreme Court, aiding my attorneys by taking part in the argument before the Supreme Court. Our opponents' arguments did not seem to draw out any response from the court. These arguments were submitted to the court about the first of December and on the 15th day of December, 1865, a unanimous decision was rendered in our favor in all things that we appealed from, thereby establishing our titles as good titles from the United States. I took a copy of the decision of the General Land Office for patents, and they were given to every settler on these public lands. This long litigation was not all in vain, for it resulted in perpetual perfection of the titles to the largest portion of the lands which constitute the town now called Colma.

I closed up all of our land matters in Washington about the first of May, 1866 and sailed for California and arrived here about May 24, 1866 with our titles and final decree of the Supreme Court and we immediately commenced taking possession of our homes that our opponents had occupied for three years without even paying us damages or rents for our lands.<sup>10</sup>

