

**Record of the Abstract  
and other Documents  
pertaining to the Title  
of the  
EX-MISSION OF SANTA CATARINA  
LOWER CALIFORNIA**

**3**

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 MEXICAN REPUBLIC

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TESTIMONY

OF A DEED OF SALE MADE BY  
MR. JUAN JULIO MORNER IN FA-  
VOR OF MR. MANUEL CASTRO.

Real del Castillo,  
July 1st, 1875.  
Receptoría.

Testimony of the Judge substitute of 1st Instance of the territory of Lower California, R.A.Rodriguez deposing that the first day of July, 1875 in the Real del Castillo was recorded the expediente moved by the Baron Mr. Juan Julio Morner as Attorney in fact of Mr. Ricardo Palacio in solicitation of the lands of the Ex-Mission of Santa Catarina.

Testimony of the Judge Substitutes of 1st Instance of the territory of Lower California, R.A.Rodriguez deposing that on the 1st day of July 1875, was recorded in the Real del Castillo the Power of Attorney of Mr. Ricardo Palacio to the citizen Baron Mr. Juan Julio Morner so that representing his person he may proceed to perfectionate the concession made to Mr. Ricardo Palacio by the Supreme Mexican Government of the lands of the Ex-Mission of Santa Catarina on the 20th of December, 1855, with copy of said instrument together with the Deed of Conveyance, executed by Ricardo Palacio in favor of the Baron Juan Julio Morner.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California, R.A.Rodriguez, deposing that on the first day of July, 1875, was recorded in the Recorder's office at the Real del Castillo a Deed of Conveyance executed by the Baron Juan Julio Morner on the 19th of October, 1858 in favor of Mr. Manuel Castro of lands in the territory of Lower California, with the copy of said deed to the said Castro and authorized and acknowledged by the competent authorities.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California deposing that on the 2nd day of July, 1875 was recorded in the office of the Real del Castillo an instrument of Agreement executed by Adolfo Palacio and the Baron Mr. Juan Julio Morner on the 14th day of December, 1870 on lands in the territory of Lower California with copy of said agreement executed in the City of San Francisco, Alta, California.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California R.A.Rodriguez deposing that on the 26th of June 1875, was recorded in the office at the Real del Castillo a certain Deed of Conveyance executed by Mr. Manuel Castro in favor of Mr. Guillermo Denton on the 30th of October, 1874, on land in Lower California. Copy of the Deed of Conveyance executed in the City of San Francisco, Alta, California, and acknowledged by the competent authority.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California R.A.Rodriguez deposing that on the 3rd day of July, 1875, was recorded in the office at the Real del Castillo a certain Deed of Conveyance executed by Mr. Manuel Castro in favor of Mr. Guillermo Denton on the 30th of October, 1874, on the lands in Lower California, copy of the Deed of Conveyance executed in the City of San Francisco, Alta, California and acknowledged by the competent authority.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California R.A.Rodriguez, deposing that on the 3rd of July, 1875, was recorded in the office at the Real del Castillo, a Deed of Conveyance executed by Mr. Manuel Castro in favor of Mr. Guillermo Denton of Lower California, with copy of the Deed of Conveyance made in the city of San Francisco, Alta, California and acknowledged by the competent authority.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California R.A.Rodriquez, deposing that on the 2nd of July, 1875, was recorded in the office of the Real del Castillo a Deed of Conveyance, executed by Don Manuel Castro in favor of Mr. Guillermo Denton on the 2nd of November, 1874 of land in the territory of Lower California. Copy of the Deed of Conveyance made in the city of San Francisco, Alta, California and authorized by the competent authority.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California, R.A.Rodriquez deposing that on the 30th day of June, 1875, was recorded in the office at the Real del Castillo a Deed of Conveyance executed by Mr. Manuel Castro in favor of Don Guillermo Denton on the 2nd of November, 1874 of lands in the territory of Lower California. Copy of the Deed of Conveyance executed in the City of San Francisco, Alta, California, and acknowledged by the competent authority.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California, R.A.Rodriquez deposing that on the 28th day of June, 1875, e was recorded in the office at the Real del Castillo, a Deed of Conveyance made by Don Manuel Castro in favor of Mr. Guillermo Denton on the 2nd of November, 1874, of lands in the Ex-Mission of Santa Catarina in Lower California. Copy of the said Deed of Conveyance executed in the City of San Francisco, Alta, California and acknowledged by the competent authorities.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California, R.A.Rodriques, deposing that on the 29th day of June, 1875, was recorded at the office of the Real del Castillo, a Deed of Conveyance executed by Don Manuel Castro in favor of Don Guillermo Denton on the 4th of November, 1874, of lands in the Ex-Mission of Santa Catarina, Lower California. Copy of the Deed of Conveyance in the City of San Francisco, Alta, California, and acknowledged by the competent authority.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California, R.A.Rodriquez, deposing that on the 14th day of June, 1875, was recorded in the office at the Real del Castillo a Deed of Conveyance executed by Mr. Guillermo Denton in favor of Mr. Jonathan Kitteredge, on the 4th of November, 1874, of lands in the Ex-Mission of Santa Catarina, Lower California. Copy of said Deed of Conveyance made in the City of San Francisco, Alta, California, and acknowledged by the competent authority.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California R.A.Rodriquez deposing that on the 15th of June, 1875, was recorded in the office at the Real del Castillo a certain Deed of Trust, made by Mr. Guillermo Denton in favor of lands in the Ex-Mission of Santa Catarina, Lower California. Copy of the said Deed of Trust executed in the City of San Francisco, Alta, California, and acknowledged by the competent authority.

Testimony of the Judge Substitute of 1st Instance of the territory of Lower California, R.A.Rodriquez deposing that on the 14th day of June, 1875, was recorded in the office at the Real del Castillo a certain Deed of Trust, made by Mr. Guillermo Denton in favor of Mr. Guillermo Mc.Crindle on the 12th of January, 1875, of lands in the Ex-Mission of Santa Catarina, Lower California. Copy of the said Deed of Trust executed in the City of San Francisco, Alta, California, and acknowledged by the competent authority.

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UNITED STATES OF AMERICA  
State of California  
City and County of San Francisco  
of San Francisco duly commissioned and sworn, and therein residing do  
hereby certify that I have carefully compared the foregoing copy with  
the original ABSTRACT AND INDEX, and that the same is a full, true  
and correct copy thereof and of the endorsements thereon.  
IN TESTIMONY WHEREOF, I have hereunto set my hand and official  
seal this tenth day of August A.D.1875.

Sam'l S.Murfey  
Notary Public

SEAL

Agreeably to your request, I have examined the records of the Government in relation to the title of Ricardo Palacio to the Ex-Mission of Santa Catarina, in Lower California.

I find that a grant was made to Ricardo Palacio on the 20th of December, 1855, with the condition that he should not transfer to foreigners, not naturalized; that he must survey land within three years and build and settle within said time. On May 20th, 1861, the Department stated that Palacio had not settled the land; that the grant is for 241 leagues, this being contrary to the law of Colonization of August 18th, 1824, which allows only eleven leagues each grantee; that Palacio contract with Juan Julio Morner conveying nearly one-half of grant violates grant as Morner was a foreigner, and the Government nullifies Palacio's Grant.

In June, 8th, 1861, Palacio, asks for one-third of the land grant and reimbursement of expenses. On June 17th, 1861 Government denies petition, but in June 20th, grants Palacios eleven leagues as a matter of equity, but with the condition that he must survey and settle within one year. June 24th Palacios asks for three years to survey and settle, and two years are allowed him. In December, 1862 Palacios asks for two years more, and Government allows him till June 29th, 1865. On the 18th of August, 1875, Palacio asks the government to validate his grant for the eleven leagues, alleging that the French Intervention had prevented him from surveying and settling. On the 4th of October, 1875, the government denied his petition, basing its action on the reasons above stated for not complying with conditions.

Agreeably to your request, I have examined the records of the Government in relation to the title of Ricardo Palacio to the Ex-Mission of Santa Catalina, in Lower California.

I find that a grant was made to Ricardo Palacio on the 20th of December, 1855, with the condition that he should not transfer to foreigners, nor naturalized; that he must survey land within three years and settle the within said time. On May 20th, 1861, the Department stated that Palacio had not settled the land; that the grant is for 241 leagues, this being contrary to the law of Colonization of August 18th, 1824, which allows only eleven leagues each grantee; that Palacio contract with Juan Luis Morner conveying nearly one-half of grant also later grant as Morner was a foreigner, and the Government nullifies Palacio's Grant.

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In April, 1863, Mr. Mariscal, Minister of Foreign Affairs, in passing on the deeds to Thompson and Rutledge stated that land is within the 20 leagues limit with United States and the deeds were not valid.

It appears that in May, 1876, Robert McKay asks that title to the land conveyed to him by Denton, some 71 sitios (leagues) be granted to him. The Department denies petition for the several reasons stated above which made grant to Palacio of 1859 null, and hence no title could be de-raigned through him.

In Dec. 1872, Foreign Relations sends to the Department of Fomento Deed to W.S. Thompson and George Rutledge to report as to their validity, and Fomento reports that the Palacio Grant of 1855 was null under the law of 14th March, 1861 for lack of compliance with condition of grant and also because the original survey was not filed but only what purported to be a copy. Also because the grant was for 341 leagues, this being contrary to law of 18th August, 1824; also because Palacio had sold part of land to Morner who was a foreigner not naturalized, and further because Palacio had not surveyed and settled land by the 20th of June, 1865. The Department further states that deeds to Thompson and Rutledge are void, being contrary to laws relating to foreigners, of 11th March, 1842, February 1st, 1856, and 10th March, 1857.

In October, 1898, the Government reiterates nullity of the Palacio Grant.

It appears that the land or part of it was granted to Louis Huller for the Lower California Land & Colonization Co.

It results that it would be futile to attempt to obtain



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It appears that in May, 1876, Robert McKay asks that title to the land conveyed to him by Denton, some 71 acres (leagues) be granted to him. The Department denies petition for the several reasons stated above which made grant to Palacio of 1859 null, and hence no title could be returned through him.

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In October, 1898, the Government reiterates nullity of the Palacio Grant.

It appears that the land or part of it was granted to Louis Miller for the Lower California Land & Colonization

Co. It results that it would be futile to attempt to obtain

any results by any efforts to derive benefit from the Palacio Grant.

The above opinion was prepared from memory and hearsay while the author was on a visit to San Francisco.

In his attempt to transfer the title to the land

the author has endeavored to state the reasons for the nullity of the grant of 1859 and the reasons for the nullity of the grant of 1861. It should be noted that the grant of 1859 was null under the law of 14th March, 1861 for lack of compliance with condition of grant and also because the original survey was not filed but only what pur-ported to be a copy. Also because the grant was for 71 leagues, this being contrary to law of 18th August, 1824; also because Palacio had sold part of land to Morner who was a foreigner not naturalized, and further because Palacio had not surveyed and settled land by the 20th of June, 1863. The Department further states that deeds to Thompson and Rutledge are void, being contrary to laws relating to foreigners, of 14th March, 1824, February 1st, 1856, and 10th March, 1857.

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Palacio Grant.

The above opinion was prepared from memory and hearsay

while the author was on a visit to San Francisco.

COMMENT ON SUPELVEDA OPINION.

Supelveda's opinion:

Morner could not speak for his grantees in his attempt to compromise in the above "opinion."

Line 11(eleven) is in error in the "opinion" stating that only eleven leagues may be granted to foreigners and within a certain zone from the sea shore. It should have added - "without the permission of the Supreme Government."

Palacio's grant was direct from the Supreme Government: it did not require ratification, as in case of a grant from local authority.

Milatovich attempted to carry out provision of grants even before the decree of March 14, 1861, avoiding said grants, but was prevented.

Lic. N. Castilla  
Portugal

Robert McKay.

CITIZEN PRESIDENT OF THE COMMISSION APPOINTED BY THE DEPARTMENT OF STATE, FOR THE ISSUANCE OF TITLES OF OWNERSHIP OF VACANT LANDS IN LOWER CALIFORNIA.

Si. on

Robert McKay, native of Scotland, and Mexican citizen, by naturalization, before you respectfully sets forth: That under date of the 29th of April last, I have presented to the Citizen, Minister of State, a statement, of which I have the honor to hand you a simple copy. I show in this that I am owner in possession and property of a part of the lands of the ancient Mission of Santa Catarina, in this territory; and by virtue of these titles and of the closing directions of Article 1st, Clause 1st, of the law of the 14th of December, 1874, I solicit that the corresponding title of property may be issued to me and that in the meantime, no denouncement of the said lands shall be admitted.

As there has not been sufficient time to obtain from the Supreme Government a decision on my petition and expired the time, designated in the letter of convocation, despatched in the General order, the month of March, last.

I beg you, that considering me before you with the original titles herewith (which I ask to be returned to me when the proper records shall be made of them) you will:

- 1st. First. To admit the proof that I offer you that since the day of the approval of the said law of the 14th of December, 1874, I have been in quiet and peaceable possession of the said lands as expressed in the first clause of the 1st Article of the said law.
- 2nd. Second. Not to admit any denouncement of the lands mentioned, and lastly, to consult the Department of state, at your convenience, that the title of property, which I have asked, may be issued to me.

To do this in accordance with the rule of rigorous justice which I invoke, declaring that I am not moved by malice.

Mexico the fourteenth of May one thousand eight hundred and seventy-six.

Lic.M. Castilla

Portugal

Robert McKay.

COMMENT ON ...

...

... in his attempt to compromise in the above "option"

... "without the permission of the Supreme Government"

... local authority.

... but was ...

CITIZEN PRESIDENT OF THE COMMISSION APPOINTED BY THE DEPARTMENT OF STATE, FOR THE ISSUANCE OF TITLES OF OWNERSHIP OF VACANT LANDS IN LOWER CALIFORNIA.

No. 18

TRANSLATION OF  
PETITION TO THE  
COMMISSION

Robert McKay, native of Scotland, and Mexican citizen, by naturalization, before you respectfully sets forth: That on the 25th of April, 1874, I have presented to the Honorable Minister of State, a statement, of the lands which I have the honor to hold in possession and part of the lands of the ancient Mission of Santa Catarina, in this territory; and by virtue of these titles and of the closing directions of Article 1st, Clause 1st, of the law of the 14th of December, 1874, I solicit that the corresponding title of property may be issued to me and that in the meantime, no denouncement of the said lands shall be admitted.

As there has not been sufficient time to obtain from the Supreme Government a decision on my petition and expired the time, designated in the letter of convocation, despatched in the General order, the month of March, last.

I beg you, that considering me before you with the original titles herewith (which I ask to be returned to me when the proper records shall be made of them) you will:

1st. First. To admit the proof that I offer you that since the day of the approval of the said law of the 14th of December, 1874, I have been in quiet and peaceful possession of the said lands as expressed in the first clause of the 1st Article of the said law.

2nd. Second. Not to admit any denouncement of the lands mentioned, and lastly, to consult the Department of State, at your convenience, that the title of property, which I have asked, may be issued to me.

To do this in accordance with the rule of rigorous justice which I invoke, desiring that I am not moved by malice.

Mexico the fourteenth of May one thousand eight hundred and seventy-six.

Jos. M. Castilla

Portugal

Robert McKay.

TO THE HONORABLE MINISTER OF STATE, FOR THE ISSUANCE OF TITLES OF OWNERSHIP OF VACANT LANDS IN LOWER CALIFORNIA.

That, as a Mexican citizen, and already in possession of the title of property, which I have the honor to hold in possession and part of the lands of the ancient Mission of Santa Catarina, in this territory; and by virtue of these titles and of the closing directions of Article 1st, Clause 1st, of the law of the 14th of December, 1874, I solicit that the corresponding title of property may be issued to me and that in the meantime, no denouncement of the said lands shall be admitted.

PETITION

Robert McKay

Asks that he be protected in the enjoyment of the property and that no denouncement of the same be admitted of the lands which has purchased pertaining to the Ex-Mission of Santa Catarina in Lower California.

As there has not been sufficient time to obtain from the Supreme Government a decision on my petition and expired the time, designated in the letter of convocation, despatched in the General order, the month of March, last.

I beg you, that considering me before you with the original titles herewith (which I ask to be returned to me when the proper records shall be made of them) you will:

1st. First. To admit the proof that I offer you that since the day of the approval of the said law of the 14th of December, 1874, I have been in quiet and peaceful possession of the said lands as expressed in the first clause of the 1st Article of the said law.

2nd. Second. Not to admit any denouncement of the lands mentioned, and lastly, to consult the Department of State, at your convenience, that the title of property, which I have asked, may be issued to me.

To do this in accordance with the rule of rigorous justice which I invoke, desiring that I am not moved by malice.

Mexico the fourteenth of May one thousand eight hundred and seventy-six.

Jos. M. Castilla

Portugal

Robert McKay.

PETITION

Robert McKay

Asks that he be protected in the enjoyment of the property and that no denouncement of his name be admitted of the lands which has purchased pertaining to the Mission of Santa Catarina in Lower California.

CITIZEN MINISTER OF FOMENTO: Robert McKay, a native of Scotland and a Mexican citizen by naturalization, respectfully represents to you as follows:

That, as a Mexican citizen, as already indicated and as appears for No.216, Vol 9 of the "diaro official" of the Supreme Government, I purchased some 96½ leagues more or less of land pertaining to the old Mission of Santa Catarina, in Lower California, which appears from the accompanying documents No.1, which is a copy of the original title now in my possession and authenticated by Mr. Emilio Legaspy, Judge of the Court of 1st Instance (substitute) for the Northern part of Lower California.

In said document it is seen that Mr. William Denton an Englishman by origin and for many years a Mexican by naturalization, sold to me seventy-one and a half leagues and besides 112,500 acres all undivided of the mentioned land which had belonged to the Mission of Santa Catarina.

It is opportune to mention here that said sale was made to me after I had been naturalized in this Republic by the "Carta" which the President concede to me under date of September 11th, 1875 and after I had established myself in Lower California, where I still maintain my domicile(see accompanying documents No.2), and having passed to San Francisco, Upper California, reaching there on the 24th of September.

The accompanying documents Nos. 3,4,5,6,7, 8, & 9, are other copies of documents of sale, executed in said San Francisco between the Mexican citizen Manuel Castro and William Denton, by virtue of which the second acquired from the first, in various portions, the amount or sum total of land which he sold to me.

Mr. Castro, a Mexican, by origin had bought an undivided fourth of this land which were formerly comprised by the Mission of Santa Catarina in Lower California, from Mr. John Julio Morner, a naturalized Mexican, as appears from the adjoining documents 10 and 11 and the same party (Castro), sold the same portion of the said lands to Mr. William Denton.

The property rights of John Julio Morner is the fourth part of the mentioned lands are founded upon the secession made to Ricardo Palacio, their first owner, as a just remuneration for the services rendered by the former in acquiring said lands in conformity with the concession given by the Mexican Government on the 20th of December 1855, the proof of which is found in the adjoining documents No.12.

The reference to documents which I have above made will show the regular uninterrupted transfer of the undivided fourth part of the lands pertaining to the extinct Mission Santa Catarina in Lower California, from Ricardo Palacio, who received the lands from the Government to himself.

CITIZEN MINISTER OF MOMENTO: Robert McKay, a native of Scotland and a Mexican citizen by naturalization, respectfully represents to you as follows:

That, as a Mexican citizen, as already indicated and as appears for No. 216, Vol. 9 of the "diario oficial" of the Supreme Government, I purchased some 900 leagues more or less of land pertaining to the old Mission of Santa Catarina, in Lower California, which appears from the accompanying document, No. 1, which is a copy of the original title now in my possession and authenticated by Mr. Emilio Legaspy, Judge of the Court of last Instance (substitute) for the Northern part of Lower California.

In said document it is seen that Mr. William Denton an Englishman by origin and for many years a Mexican by naturalization, sold to me seventy-one and a half leagues and besides 12,500 acres all included in the mentioned land which had belonged to the Mission of Santa Catarina.

It is oportune to mention here that said sale was made to me after I had been naturalized in the Republic by the "Gaceta" which the President concedes to me under date of September 13th, 1855 and after I had established myself in Lower California, where I still maintain my domicile (see accompanying document No. 2), and having passed to San Francisco, Upper California, residing there on the 24th of September.

The accompanying document No. 3, 4, 5, 6, 7, 8, 9, are other copies of documents of sale, executed in said San Francisco between the Mexican citizen Manuel Castro and William Denton, by virtue of which the second amount paid from the first, in various portions, the amount or sum total of land which he sold to me.

Mr. Castro, a Mexican, by origin had bought an undivided fourth of this land which were formerly comprised by the Mission of Santa Catarina in Lower California, from Mr. John T. Morner, a naturalized Mexican, as appears from the adjoining documents 10 and 11 and the same party (Castro), sold the same portion of the said lands to Mr. William Denton.

The property rights of John T. Morner in the fourth part of the mentioned lands are founded upon the concession made to Ricardo Palacio, their first owner, as a just remuneration for the services rendered by the former in acquiring said lands in conformity with the concession given by the Mexican Government on the 20th of December 1855, the proof of which is found in the adjoining document No. 12.

The reference to documents which I have above made will show the regular uninterrupted transfer of the undivided fourth part of the lands pertaining to the extinct Mission Santa Catarina in Lower California, from Ricardo Palacio, who received the lands from the Government to himself.

With this title, and as the agent of J.J. Morner so far as this representation may be useful, see adjoining document No. 13, I represent myself to you asking that you may be pleased to confer with the President to the end that the respective title may be issued to me confirming the concession made to Ricardo Palacio or at least the portion of the lands bought by me in good faith, so that in future there can be no doubt or controversy in regard to legitimacy of the rights of dominion which I consider I have acquired over said portion.

I am aware of the cause of the question relative to the subsistence of the concession made by the Supreme Government of the Republic to Ricardo Palacio on the 24th of December, 1855, a literal copy of which is adjoined. No. 12, page 2.

The caused referred to is the declaration of nullity contained in Art. 2nd of the law of March 14th, 1861, in which there nominally figures the transfer made to Ricardo Palacio of lands in the Mission of Santa Catarina. But the declaration can have no legal value, as it is based upon an error which the Government committed without doubt in good faith or from the false information which it received, or from carelessness on the part of the respective authorities not communicating opportunely the state of, and report upon the documents brought together relative to the concession of the 20th of December, precisely to give entire compliance with the terms of said concession.

The only two conditions which are formed in said concession: 1st. That Ricardo Palacio could never transfer the lands given him to any foreign individual or individuals, not naturalized in the Republic. 2nd. That within three years counting from the date cited, Dec. 20, 1855, the concessionaries (Ricardo Palacio), should take possession of the lands, the corresponding boundaries and measurements, having been first made. The first of these conditions, has been faithfully complied with in the transmission of the portion of the lands which through successive transfers have come down to me from Ricardo Palacio. Therefore, I do not consider that the declaration of nullity indicated was found upon any transfer of the lands to any foreigner, not naturalized in the Republic, at least the portion belonging to me.

The second conditions appears also to have been complied with in the document in evidence adjoined to this petition, with No. 12 and the map to be found therewith.

The Supreme Government must also have considered it to have been complied with, when, on the 8th day of Aug. 1859, Mr. Milchor Decampo, who was then the head of the Ministry, of which you have now the worthy charge said, from Vera Cruz to the Superior political and military chief (authority of Lower California) "His Excellency has been pleased to confirm the titles, which you accompany with your mentioned dispatches and is a copy of those sent to Washington to His Excellency, the Minister Plenipotentiary, Mr. Jose Mana Mata by the commissioner of that "Justicia Political" Baron de Morner, provided that the possessors of the same comply with the conditions of the concession.

With this title, and as the agent of J.J. Morner  
so far as this representation may be useful, see ad-  
joined document No. 13, I represent myself to you as  
and that you may be pleased to confer with the Presi-  
dent to the end that the respective title may be issued  
to me confirming the concession made to Ricardo Palacio  
or at least the portion of the lands bought by me in  
good faith, so that in future there can be no doubt or  
controversy in regard to legitimacy of the rights of domin-  
ion which I consider I have acquired over said portion.

I am aware of the cause of the question relative  
to the substance of the concession made by the Sup-  
reme Government of the Republic to Ricardo Palacio on  
the 24th of December, 1858, a literal copy of which is  
adjoined. No. 12, page 2.

The cause referred to is the declaration of nullity  
contained in Art. 3rd of the law of March 14th, 1861, in  
which there nominally figures the transfer made to Ri-  
cardo Palacio of lands in the Mission of Santa Catarina.  
But the declaration can have no legal value, as it is  
based upon an error which the Government committed with-  
out doubt in good faith or from carelessness on the part of the res-  
pective authorities not communicating to the State of,  
and report upon the documents brought together  
relative to the concession of the 20th of December, pre-  
sented to give entire compliance with the terms of said  
concession.

The only two conditions which are found in said  
concession: 1st. That Ricardo Palacio could never transfer  
the lands given him to any foreign individual or indi-  
vidual, not naturalized in the Republic. 2nd. That  
within three years counting from the date cited, Dec. 20,  
1858, the concessionary (Ricardo Palacio), should  
take possession of the lands, the corresponding boundaries  
and measurements, having been first made. The first  
of these conditions, has been substantially complied with  
in the transmission of the portion of the lands which  
through successive transfers have come down to me from  
Ricardo Palacio. Therefore, I do not consider that the  
declaration of nullity indicated was found upon any trans-  
fer of the lands to any foreigner, not naturalized in  
the Republic, at least the portion belonging to me.

The second condition appears also to have been com-  
plied with in the document in evidence adjoined to this  
petition, with No. 12 and the map to be found therein.

The Supreme Government must also have considered  
it to have been complied with, when, on the 23rd day of  
Aug. 1859, Mr. Melchor Decampo, who was then the head  
of the Ministry, of which you have now the worthy charge,  
said, from Vera Cruz to the Superior Political and Mil-  
itary Chief (authority of Lower California) "Mr. Escob-  
edo, you may be pleased to confirm the title, which you ac-  
company with your mentioned dispatches and as a copy of  
those sent to Washington to His Excellency, the Minister  
Plenipotentiary, Mr. Jose Maria Mata by the Commissioner  
of that "Territorial Political" Baron de Morner, provided  
that the possessors of the same comply with the conditions  
of the concession.

The paragraphs which are above copied are a most un-  
mistakable proof that on the 28th of August, 1859, the Sup-  
reme Government was satisfied that the concessionists had  
not failed to comply, with any of the conditions expressed  
in the concession among the concessionists, was included  
Ricardo Palacio on behalf of the lands of the Ex-Mission  
of Santa Catarina as may be seen in the circumstantial  
report, "dated San Francisco January 17th, 1859" which the  
Supreme Government received in Vera Cruz. This is the  
same referred to by Mr. Decampo, the extract from which  
I have inserted above literally and which is found published  
on page 56 of the (Recopilacion) of laws, decrees and  
acts made by the order of the Government of Basilio  
Jose Arillaga, corresponding to the month of March, 1861.  
As the boundaries, measurements and the taking possession  
of the same were verified, conceded to Ricardo Palacio be-  
fore August 1858, the Supreme Government could very well  
confirm, as in fact it did confirm, with knowledge of the  
reason why, an years afterwards, the concession of said  
lands.

As a second condition which is the one I am now  
treating off was positive and had to be complied with  
in a fixed period, the confirmation given after the  
period necessarily involved the recognition by the  
Government, that the conditions had been fulfilled to  
its satisfaction, in the terms was here and set and  
are set forth in the adjoining document No. 12.

It is true that the Minister of Fomento, Mr. Melchor  
Decampo, upon communicating the conformation now being  
treated of, added "provided that the possessor comply  
with the condition of the concession", but this para-  
graph cannot refer to the positive condition of the con-  
cession, the previous survey etts., which had already  
been made with the knowledge of the government, the  
want of which, in itself would have caused the nulli-  
fication of the concession, in which case it could not  
have been confirmed. These words evidently referred  
to the conditions which should be observed in future  
and to the case of Ricardo Palacio could only refer  
to the first of the two conditions of the concession  
referred to this: That the lands could never be trans-  
ferred to a foreigner or foreigners who had not been  
naturalized; negative in its nature, no period is recog-  
nized, its observance remained perpetual for the con-  
cessionists and his successors in the proprietorship  
of the lands, and therefore, in confirming the concession  
it was declared anew that the condition or conditions  
pending remained in force without any modifications,  
meanwhile those not pending as they had been, complied with  
gave cause for the conformation otherwise the conforma-  
tion is unexplainable.

Having, as I understand demonstrated my rights  
to one-fourth part of the lands pertaining to the  
Ex-Mission of Santa Catarina in Lower California and  
the declaration nullifying the concession made to  
Ricardo Palacio contained in the decree of March 14th  
1861, was founded upon an error and therefore can have  
no effect.

The paragraphs which are above copied are a most un-  
 mistake proof that on the 8th of August, 1859, the Sup-  
 reme Government was satisfied that the concessionists had  
 not failed to comply with any of the conditions expressed  
 in the concession among the concessionists, was included  
 Ricardo Palacios on behalf of the lands of the Ex-Mission  
 of Santa Catarina as may be seen in the circumstances  
 report, dated San Francisco January 17th, 1859, which the  
 Supreme Government received in Vera Cruz. This is the  
 same referred to by Mr. Decampo, the extract from which  
 I have inserted above under the heading of "PETITION"  
 on page 26 of the ( Report of the ) Robert McKay  
 and made by the order of the Government of Bahia  
 Jose Arizaga, corresponding to the month of March, 1861.  
 As the boundaries, Citizen Minister of Fomento, Mexico  
 of the same were verified, corresponding to Ricardo Palacios be-  
 fore August 1858, the Supreme Government could very well  
 confirm, as in fact it did, with knowledge of the  
 reason why, an years afterwards, the concession of said  
 lands.

PETITION

22 April 1876

As a second condition which is the one I am now  
 treating of was positive and had to be complied with  
 in a fixed period, the concession given after the  
 period necessarily involved the recognition by the  
 Government, that the conditions had been fulfilled to  
 the satisfaction, in the terms here and set and  
 are set forth in the following document No. 11.

It is true that the Minister of Fomento, Mr. Melchor  
 Decampo, upon communicating the concession now being  
 treated of, added "provided that the possessor comply  
 with the condition of the concession," but this para-  
 graph cannot refer to the positive condition of the con-  
 cession, the previous survey etc., which had already  
 been made with the knowledge of the Government, the  
 want of which, in itself would have caused the nulli-  
 fication of the concession, in which case it could not  
 have been confirmed. These words evidently referred  
 to the conditions which should be observed in future  
 and to the case of Ricardo Palacios could only refer  
 to the first of the two conditions of the concession  
 relating to the fact that the lands could never be trans-  
 ferred to a foreigner or foreigners who had not been  
 naturalized; negative in its nature, no period is recog-  
 nized, the observance remained perpetual for the con-  
 cessionists and his successors in the proprietorship  
 of the lands, and therefore, in confirming the concession  
 it was declared anew that the condition or conditions  
 pending remained in force without any modifications,  
 meanwhile those not pending as they had been, complied with  
 gave cause for the confirmation otherwise the confirma-  
 tion is inexplicable.

Having, as I understand demonstrated by rights  
 to one-fourth part of the lands pertaining to the  
 Ex-Mission of Santa Catarina in Lower California and  
 the declaration nullifying the concession made to  
 Ricardo Palacios contained in the decree of March 14th  
 1861, was founded upon an error and therefore can have  
 no effect.

OUTLINES OF TITLES.

(Note - "The Volumes referred to herein contain the cer-  
 tified copies of original deed and other muni-  
 cements of title.)

No.1. Volume 1, pages 85 to 92, Sausal de Camacho 1½ leagues  
 November 10, 1857. Governor Castro to S. Valenzuela  
 1½ leagues.

Valenzuela to Modesto Castro, March 16, 1859 ½ league.

Modesto Castro to Milatovich, March 16, 1860 ½ leagues.

This grant was confirmed by the Supreme Government  
 August 8th, 1859.

No.2. Volume 1, pages 157 to 166, San Rafael. 2 leagues  
 located immediately North of Santa Catarina.

April 7, 1858, Governor Castro to R. Rodrigo.  
 Rodrigo by Attorney, to Milatovich, August 1st, 1860  
 March 28, 1860, Power of Attorney of Rafael Rodriguez  
 to Reyes Rodrigo to take possession  
 Rafael Rodrigo (the original grantee) to Milatovich  
 September 29, for the sum of \$300,19160

Conditions:  
 To pay and to solicit the Juridicial  
 possession. This grant was confirmed  
 by the Supreme Government, August 8, 1859.

No.3. Volume 1, page 93, Rio Colorado Grant (original grant  
 was for 11 leagues. Milatovich owns 4 leagues.)

April 15, 1858, Governor Castro to M. Barragan 11 leagues  
 May 2, 1860, Barragan to Milatovich, 1 league  
 July 13, 1860, Barragan to Milatovich, 2 leagues  
 Oct. 7, 1859, Barragan to Milatovich, 1½ leagues  
 May 17, 1859, Barragan to Milatovich, 700 acres

This grant was confirmed August 8, 1859.

No.4. Volume 2, pages 1 to 5. Floating grant of 11 leagues  
 direct to Antonio Milatovich, June 9, 1856 (on the  
frontier of lower California), confirmed August 8th  
 1859, which was governmental permission to Milato-  
 vich to hold and acquire lands in the zone of the  
 "frontier of Lower California."



(Note - The Volume referred to herein contain the corrected copies of original deed and other documents of title.)

No. 1. Volume I, pages 25 to 28, Sausal de Camacho 1/2 leagues November 10, 1857. Governor Castro to S. Valenzuela 1/2 leagues.

Valenzuela to Roberto Castro, March 16, 1859 1/2 leagues.

Roberto Castro to Mlatovitch, March 16, 1860 1/2 leagues.

This grant was confirmed by the Supreme Government August 8th, 1859.

August 8th, 1859.

No. 2. Volume I, pages 157 to 166, San Rafael, 2 leagues located immediately North of Santa Catalina.

April 7, 1858, Governor Castro to R. Rodriguez Rodriguez by Attorney, to Mlatovitch, August 1st, 1860 March 28, 1860, Power of Attorney of Rafael Rodriguez to Reyes Rodriguez to take possession Rafael Rodriguez (the original grantee) to Mlatovitch September 29, for the sum of \$300, 19160

Conditions:

To pay and to collect the individual possession. This grant was confirmed by the Supreme Government, August 8, 1859.

No. 3. Volume I, page 93, Rio Colorado Grant (original grant was for 11 leagues. Mlatovitch owns 4 leagues.)

April 15, 1858, Governor Castro to M. Barragan 11 leagues May 2, 1860, Barragan to Mlatovitch, 1 league July 15, 1860, Barragan to Mlatovitch, 2 leagues Oct. 7, 1859, Barragan to Mlatovitch, 1/2 leagues May 17, 1859, Barragan to Mlatovitch, 700 acres

This grant was confirmed August 8, 1859.

No. 4. Volume 2, pages 1 to 2. Frontier grant of 11 leagues direct to Antonio Mlatovitch, June 9, 1856 (on the frontier of Lower California), confirmed August 8th 1859, which was governmental permission to Mlatovitch to hold and acquire lands in the zone of the "Frontier of Lower California."

TO SELL LAND, APRIL 7th, 1858

Republica Mexicana Secretaria de Estado y del Despacho de Relaciones Exteriores Ex me Sr. - - El Exmo Sr. Presidente Constitucional interino ha tanido a bien espedir el decreto sigue:

El C. Bonita Juarez presidente interino Constitucional de los Estados Unidos Mexicanos:

Considerando: que es mas conveniente al impulse que el Gobierno a mi cargo dar al regimen constitucional interumpedo por la rebellion para la residencia de el al Estado de Vera Cruz:

que la parte occidental de la Republica queda, como en estado de sitio, a las ordenes del Emo. Sr. D.Santos Dagollado, como General en Gefe que es del Ejercito deferal y portal estedo y transacion sin las intervention inmediata del Gobierno:

He venido en decretar con acuerdo de sis Ministros lo siguiente:

1. Queda el nombrado General en Gefe. Ex mo Sr. D Santos Dagollado, facultado, acomplisemamente en su ramo de guerra para hacer cuanto estime necesario al restablecimiento de la par y sastenimento de las instituciones.

2. Queda asimismo Y amplisimamente facultado en el ramo de Haciendo.

Queda igualmente facultado en los demas ramos pera solo lo estrictaments relative al buen desempeno, de los ramas principales que se le encomiendan.

En fe de le cuel furmamos el presente decreto para que sele de entera fe y obediencia por cuantos reconozcan el estado legal de nuestras instituciones.

Dado en el Palacio Federal de Colima a a de April 1858 Benito Juarez, M Ocampo, Manuel Ruiz, Beon Guzman Guillerme Prieto.

Y Tengo la honra de comunicarlo s V.E. Para los fines que son consiguientes.

Dios y Libertad - Colima Abril 7 de 1858

B Gomez Farias.

Oficial Mayor del Ministerio de Relaciones. Exmo. Sr. Gobernader del Estado de Sausal de Camacho Enero 29, 1859. Es.copia que Certifico

M Barragan S'crio.

REPUBLICA MEXICANA SECRETARIA DE ESTADO Y DEL DISTRITO FEDERAL

TO SHIL LAND, APRIL 7th, 1858

Republica Mexicana Secretaria de Estado y del Distrito Federal de Relaciones Exteriores Ex. Sr. - - - Sr. El Excmo Sr. Presidente Constitucional interno ha tenido a bien pedir el decreto siguiente:

El Sr. Don Juan Manuel de Guzman presidente interno Constitucional de los Estados Unidos Mexicanos:

Considerando: que es mas conveniente al impulso que el Gobierno a mi cargo dar al regimen constitucional interrumpido por la rebelion para la residencia de el al Estado de Vera Cruz:

que la parte occidental de la Republica queda, como en estado de sitio, a las ordenes del Sr. D. Santos Daguado, como General en Jefe de las fuerzas de guerra y para el estado y transaccion con las intervencion inmediata del Gobierno:

He venido en decretar con acuerdo de sus Ministros lo siguiente:

1. Queda el nombrado General en Jefe. Excmo Sr. D. Santos Daguado, facultado, acopiadamente en su rango de guerra para hacer cuanto estime necesario al restablecimiento de la paz y asentamiento de las instituciones.

2. Queda asimismo y ampliatamente facultado en el rango de General.

Queda igualmente facultado en los demas ramos para solo lo estrictamente relativo al buen gobierno, de las ramas principales que se le encomiendan.

En fe de lo cual firmamos el presente decreto para que este de entera fe y obediencia por cuantos conocen el estado legal de nuestras instituciones.

Dado en el Palacio Federal de Colima a los 13 dias del mes de Abril de 1858. Manuel Ruiz, Benigno Garmen Guillermo Prieto.

Y tengo la honra de comunicarlo a V.E. Para los fines que son convenientes.

Dios y Libertad - Colima Abril 7 de 1858

B Gomez Ferras.

Oficial Mayor del Ministerio de Relaciones Exteriores. Excmo. Sr. Gobernador del Estado de Sausal de Camacho Enero 29, 1859. Ha. copia que certifico

M Barragan S'orio.

Supor Politico y Militar de la Baja California ) Sausal de Camacho

Sausal de Camacho. Enero 29 de 1859. Es Copia que Certifico

M Barragan

Gobierno Superior Politico de la Baja California: Jose Castro Coronel del Ejercito y Gefe Superior Politico y Militar de la Baja California.

A los que los presentes vieron. Que en consideracion al haber estados la Sub Gefatura Ppoliticia del Partido Norte de este territorio encomendada es mi cargo por les Superiodad, y la cual estava desennpenada por mi mos dedos anos en cuyo tiempo investido de dos facultados economicas politicas tube habien hacer concesiones de terrenos a' aquellos que los solicitaban de mi autoridad para promover el adelanto y progreso del pais y como en algun tiempo purieran cuestionarse aquellos concesiones por estan hechas por un autoridad subalterna, y en virtud del nombramiento que el supremo Gobierno me ha conferido de Gefe Superior Politico y Militar de este territorio en use de los facultades conque me hallo investido, para estender a' la seguridad y regularidad de la propiedad rais de los habitantes:

Decreto lo siguiente.

Ante. Unico - Todas las concesiones de terrenos hechos por la Sub Gefatura Politico del partido Norte de este terrirrotio, desde el 19 de Septiembre de 1856 hasta el 17 de Noviembre del ano anterior, quedan con el mismo valor y fuerza como se se biesen dado con tados los facultades del Gefe Superior Politico del territorio y para que lleague al conocimiento de los con terrenos mando, se publique el presente decreto circule y se le de a quienes coeresponde.

Dado firmado, y sellado con el sello provincial de este Gobierno Politico en el Sausal de Camacho a lo vide Guerro de 1859.

JOSE CASTRO

M Barragan - Secretario

Sr. Jues Const'l del Mineral de San Ant'o encargado del la deldescanso, Jugado Const'l del Min'l de San Ant'eo su.

3/16

Samuel de Gamacho  
Superior Politico y Militar de la Baja California

Samuel de Gamacho. Enero 29 de 1858.  
Es Copia que Certifico

M. Barragan

Gobierno Superior Politico de la Baja California:  
Jose Castro General del Ejercito y Gefe  
Superior Politico y Militar de la  
Baja California.

Alas que los presentes vieren. Que en consideracion  
al haber estado la Sup. Gefeatura Politica del Partido  
Norte de este territorio encomendada en mi cargo por  
las Superiores, y la cual estubo desempeñada por mi nos  
debos en cuyo tiempo investido de las facultades econ-  
omicas politicas tube haber hacer concesiones de ter-  
renos a aquellos que los solicitaban de mi autoridad  
para promover el adelanto y progreso del pais y como en  
algun tiempo purifera cuestionar aquellas concesiones  
por estar hechas por un autoridad subalterna, y en virtud  
del nombramiento que el supremo Gobierno me ha conferido  
de Gefe Superior Politico y Militar de este territorio  
en uso de las facultades que me halla investido, para  
estender a la seguridad y regularidad de la propiedad  
de los habitantes:

Decreto lo siguiente.

Ante. Uno - Todas las concesiones de terrenos  
hechas por la Sup. Gefeatura Politica del partido Norte  
de este territorio, desde el 19 de Septiembre de 1856  
hasta el 19 de Noviembre del ano anterior, quedan con  
el mismo valor y fuerza como se otorgaron con tal de  
las facultades del Gefe Superior Politico del territorio  
y para que libere al conocimiento de los terrenos  
mando, se publique el presente decreto circular y se le de  
las debidas correspondencias.

Dado firmado, y sellado con el sello provincial  
de este Gobierno Politico en el Samuel de Gamacho a lo  
vide Guerra de 1858.

JOSÉ CASTRO  
M. Barragan - Secretario

Se. Juan Comas, I del Mineral de San Ant. encargado del  
la delib. Comas, I del Min. I de San Ant. de  
u. u.

POWER GIVEN TO CASTRO BY DEGOLLADO TO ACT AS CHIEF POLITICAL  
GOVERNOR ETC.

Republica Mejicana del  
Secretaria de Estado y  
Despacho De Guerra y  
Marine Ejercite Federal  
General en Gefe.

Duplicado.

Con positive complacencia me he impuesto de la  
communicacion Oficial de V.S. f'he 18 del ultimo Julio, en  
que me manifiesta sus sentimientos patrioticas y los de los  
autoridades, guardia nacional y vecinos de la jurisdiccion  
de su signo mando, con motive de la invitacion que hy'o  
a' V.S. el Gen'l en Gefe que era de la 4a linea Militar  
Dn. Jose Ma Yanez pp que secundase el proninciamento  
efectuado en Tacubaya por los traidores perjures que se  
rebelaron contra la constitucion en 17 de Diciembre pro-  
cimo pasado.

Los buenor e' ilustrados Mexicanos como V.S.y  
los recomendables habitantes del partido Norte de la  
Baja California no prdran menos que reshajar una fecunda  
en calamidades cara la Republica', puesta que el traidor  
proyecto del los Tacubayistas es conducimos por la fuerza  
al dominio doblemente tiranico y odioso del insensorio y  
del sable, que nos volveria naturalmente al yugo espanol.  
Pero oportunadamento hay muchas corazones lealez que llenam  
con religiosidad se deber, y por eso vemos que los reas-  
ionarios no han podido sojugar ni un tercio del terri-  
toric de la Republuca y que cada diapien den terrehu  
maldecidos por una imensa mayoria de los Mejicanos.

Con mucho gusto pondre en conocimiento del  
E. S. presidente constitucional el contenido del oficio  
de V.S. a que contesto, y en nombra de S.E. doy a' V.S.  
y a' todos los subditos fieles al Gobno legitimo los  
mas expresibas gracias por su leal comportamiento en  
las actuales circunstancia.

Y suenos V.S. digno la confianza de este  
Ministerio, en usa de las amplisimas facultades que me  
concede ek Supmo decreto de 7 de Abril ultimo, de que  
es adjunto un ejemplar nombre a V.S. Gefe Supor Po-  
litico de todo el territorio de la Baja California,  
para que tomando el mando politico y Militar de e'l pro-  
cue V.S. e restablecer el orn constitucional en los  
puntos sometidos a' la reaccion castigando con la  
severidad de las leyes a' los usurpadores y trastorna-  
dores del' orden publico.

Con esta ocasion disfruto la honra de protestar  
a' V.S. las seguridades de mi aprecio y consideracion.

Dios y Liberated Sayula Setiembre 13 de 1858

Gagallado

Senor Dn. Jose Castro Gefe

17

GOVERNOR ETC.

Republica Mexicana del  
Secretaria de Estado y  
Despacho de Guerra y  
Marina Federal  
General en Jefe.

Duplicado.

Con positiva comunicacion de la  
Comandancia Militar de San Francisco  
de Asis, en virtud de la invitacion  
de la Comandancia Militar de San  
Francisco de Asis, en virtud de la  
comunicacion de la Comandancia Militar  
de San Francisco de Asis, en virtud  
de la invitacion de la Comandancia  
Militar de San Francisco de Asis, en  
virtud de la invitacion de la Coman-  
dancia Militar de San Francisco de Asis.

Los paises de los Estados Unidos  
de America y de Mexico, en virtud  
de la invitacion de la Comandancia  
Militar de San Francisco de Asis, en  
virtud de la invitacion de la Coman-  
dancia Militar de San Francisco de Asis,  
en virtud de la invitacion de la Coman-  
dancia Militar de San Francisco de Asis,  
en virtud de la invitacion de la Coman-  
dancia Militar de San Francisco de Asis.

Con esta comunicacion se da a  
conocer al Sr. Comandante Militar de  
San Francisco de Asis, en virtud de la  
comunicacion de la Comandancia Militar  
de San Francisco de Asis, en virtud de  
la invitacion de la Comandancia Militar  
de San Francisco de Asis, en virtud de  
la invitacion de la Comandancia Militar  
de San Francisco de Asis.

Y para que conste fingo lo presente  
a pedimento de Sr. Comandante Militar  
de San Francisco de Asis, en virtud de  
la comunicacion de la Comandancia Militar  
de San Francisco de Asis, en virtud de  
la invitacion de la Comandancia Militar  
de San Francisco de Asis, en virtud de  
la invitacion de la Comandancia Militar  
de San Francisco de Asis.

Con esta comunicacion se da a  
conocer al Sr. Comandante Militar de  
San Francisco de Asis, en virtud de la  
comunicacion de la Comandancia Militar  
de San Francisco de Asis, en virtud de  
la invitacion de la Comandancia Militar  
de San Francisco de Asis, en virtud de  
la invitacion de la Comandancia Militar  
de San Francisco de Asis.

Gobernador

Don Juan Jose Guerra

COPY OF DECREE OF JUAREZ, dated August 8th, 1859, in which  
he gives Governor Castro power to sell lands at from 100  
to 300 dollars per league, and confirm grants of lands  
reported by Baron Morner, who was sent to get the con-  
firmation.

-0-

Sentencia de Estado y del despacho de Fomento, Coloniza-  
cion y Industria. El esom. Senor Presidente Constitu-  
ciona al de la Republica a quien de cuenta con el oficio  
de un fecha viente y siete de Mayo ultimo impuesto de  
todos los puntos que abraza, se ha servido acorda que  
de los nuevos titulos de terrenos, pide em deeds cien  
pesos por legua hasta tres cientos pesos segun clase de  
aguellas debiendo pargarse su valor por los que los  
solicitsen, en abonos de cinco por ciento al ano.

Asi mismo ha tenido a bien S.E confirmar los titulos  
que constan en el estado que vm acompaña a su referido  
oficio, y es copia del remitido a Washington al Ezmo Senor  
Ministro Plenipotenciario don Jose Maria Mate por el  
Comicinado de esa Gefetura Politica, Baron de Morner,  
siempre que los poseedores de ellos complan con las  
condiciones de la concesion, y aquines despues se en-  
viaron por el Gobierno, nuevos titulos impresos ex-  
aminando cada uno de los que se han dado, y se le en-  
vien papa tal examen Dispone igualmente el propio Exmo.  
Senor Presidente, que lo producti de los referidos tit-  
ulos, como eldel guano que remitiar a vm el consul de  
San Francisco, le empler en sostener su autoridad, ap-  
licando a la construccion una case municipal y una car-  
cel en Santo Tomas la plata depositada de los antiguas  
misiones. Todo lo que digo a vm an respuesta de su of-  
icio relativo, citado para su conocimiento y fines con-  
seguentes, ofreciendo de los seguridades de mi dis-  
guindida consideracion.

Dios y Liberted. Herocia Vera Cruz - Agosto Ocho  
de Milcientos cincuenta y nueve

OCAMPO -

Senor Gefe Superior Politico y Militar de la Baja California

Sausal de Camacho (Sello)

El infrascrito, Consul Mexicano, Cettifico que la copia  
que antecede es fiel y leglamente Sacada de su original que  
me fue presentado, por el Senor Coronel do Jose Castro, a  
quien lo devolvo desques de verificada la confronta res-  
pectiva.

Y para que conste fingo lo presente a pedimento de  
S.S. en el Puerto de San Francisco a los viente y tres  
dias del mes de Setiembre de Mil Ocho cientos cincuenta  
y nueve.

J.M. Mugarrieta

5. 18

COPY OF DECRET OF JUNE 18, 1858, dated August 8th, 1858, in which he gives Governor Castro power to sell lands at from 100 to 300 dollars per league, and confirm grants of lands reported by Baron Morner, who was sent to get the confirmation.

General de Estado y del despacho de Fomento, Colonias, Industria y Comercio. En consecuencia, el Estado al de la Republica a quien se le concede de un fecha veinte y siete de Mayo ultimo impreso de todos los puntos que abraza, se ha servido acordar que de los nuevos títulos de terrenos, que se dejen de pasar por letra hasta trescientos pesos segun clase de aguellos debiendo pagarse su valor por los dueños de los mismos, en abonos de cinco por ciento al año.

Asi mismo ha tenido a bien S.E. confirmar los títulos que constan en el estado que va acompaño a un referido Oficio, y se copia del remitido a Washington al Excmo. Sr. Ministro Plenipotenciario don Jose Maria Mate por el Gobierno de las Californias, Sr. Baron de Morner, siempre que los poseedores de ellos cumplan con las condiciones de la concesion, y en sus pagos se entreguen por el Gobierno, nuevos títulos impresas en uniendo cada uno de los que se han dado, y se le entrega para tal examen igualmente el propio Excmo. Sr. Presidente, que le presento de los referidos títulos, como el Sr. Mate que remitir a un el conde de San Francisco. Le suplico en consecuencia en autoridad, quedando a la consideracion una casa municipal y una casa del Sr. Tomas la plaza depositada de los anteriores. Todo lo que digo a un en respuesta de un oficio relativo, otorgado para su conocimiento y fines correspondientes, ofreciendo de los seguridades de mi diligencia consideracion.

Mios y libertad. Heroica Vera Cruz - Agosto Ocho de Milnoventa y nueve

- CAJADO -

Senor Jefe Superior Politico y Militar de la Baja California

General de Camacho (Sello)

El infrascrito, General Mexicano, Gerente que la copia que antecede es fiel y legítima sacada de un original que me fue presentado, por el Sr. General de Jose Castro, a quien lo devolvo despues de verificada la conformidad respectiva.

Y para que conste firmo lo presente a pedimento de S.E. en el Puerto de San Francisco a los veinte y tres dias del mes de Setiembre de Mil noventa y nueve.

J. M. Martinez

From part 11, The Civil Code of the Federal District and Baja California.

NOTES:

Contracts, wills, deeds and all other legal documents executed in a foreign country in conformity with the laws of that country regarding form and execution, are valid in Mexico. Art 14. Ken pg 198

If such contracts are entered into by a foreigner and are by their terms to be executed in Mexico he may choose either the law of the place of execution or the law of the place of performance, as the law to govern with respect to the interpretation thereof.

Whoever predicates a right upon foreign laws must prove their existence and applicability to the case in question.

See Title XII - Chapter 1 for Powers of Attorney etc. Arts 2342 - 2433.

Legalization of Instruments executed outside of Mexico.

- 1 Legalized before the local Consul of Mexico in country where document was executed.
- 2 Signature of said Consul of Mexico must then be legalized before the Chief Clerk of the Ministry of Foreign Relations in Mexico City (according to Kerr, - such documents must be presented in person).
- 3 The document as thus legalized, accompanied by a translation thereof in Spanish, is then presented to a Mexican Court having jurisdiction of such matters which orders of the document translated and protocolized.

Article 455 of "Elcodigo de Procedimientos Civiles del Distrito Federal y territorial de la Baja California, promulgado por el C Manuel ConZales, Presidente Constitucional de los Estados Unidos Mexicanos el 15 de Mayo de 1884."

NOTARIAL PROTOCOLOS

Each Notarial office maintains a protocol which is transmitted from each Notary to his successor in office. It is kept in one or more books. There is kept an appendix to each book in which are filed and kept the documents permanently deposited with the notary in connection with each notarial act. Original kept. (P 185 Kerr) Also its authorized translation. Copy in protocol becomes original.

Certified copies duly stamped, issued for protocol; recorded and record kept of copies and notary's signature legalized. Gov.

NOTES:

Contracts, wills, deeds and all other legal documents executed in a foreign country in conformity with the laws of that country regarding form and execution, are valid in Mexico. Art 14. Kan pg 193

If such contracts are entered into by a foreigner and are by their terms to be executed in Mexico he may choose either the law of the place of execution or the law of the place of performance, as the law to govern with respect to the interpretation thereof.

Whoever produces a right upon foreign laws must prove their existence and applicability to the case in question.

See Title XII - Chapter I for Powers of Attorney etc. Arts 2482 - 2487.

Legalization of instruments executed outside of Mexico.

1 Legalized before the local Consul of Mexico in country where document was executed.

2 Signature of said Consul of Mexico must then be legalized before the Chief Clerk of the Ministry of Foreign Relations in Mexico City (according to Kayr, - such documents must be presented in person).

3 The document as thus legalized, accompanied by a translation thereof in Spanish, is then presented to a Mexican Consul having jurisdiction of such matters which orders of the document translated and protocolized.

Article 455 of "Codigo de Procedimientos Civiles del Distrito Federal y Territorio de la Baja California, promulgado por el General Gonzalez, Presidente Constitucional de los Estados Unidos Mexicanos el 15 de Mayo de 1884."

NOTARIAL PROTOCOL

Each Notarial office maintains a protocol which is transmitted from each Notary to his successor in office. It is kept in one or more books. There is kept an appendix to each book in which are filed and kept the documents permanently deposited with the Notary in connection with each notarial act. Original kept. (P 185 Kayr) Also the authorized translation. Copy in protocol becomes original.

Certified copies duly stamped, issued for protocol; record and record kept of copies and Notary's signature legalized. Gov.

Following in Hawley v. Smith - 45 Ind.183 -204 quoting old English authorities and going into the whole subject.

Note the following from above case.

Power to sell, coupled with an interest in the thing to be sold, survives the grant of the power (otherwise where interest is in proceeds only)" - Citing the leading case in this country -HUNT VS ROUSMAINIERES, EXECUTORS reported in 2 Mason - 244 and in 8 Wheat. - 174 Judge Story decided the case in the Circuit Court and Marshall C.J. rendered the opinion in the Supreme Court (U.S.)

From opinion of Justice Marshall (after a statement of the general rule that such power is revocable upon death)

"But this rule has sustained some modification. Where a letter of attorney forms a part of a contract, and is a security for money, or for the performance of any act which is deemed valuable, it is generally made irrevocable in terms, or if not so, is deemed irrevocable in law.

"Although a letter of attorney depends, from its nature on the will of the person making it, and may in general, be recalled at his will, yet if he binds himself, for a consideration, in terms or by the nature of his contract, not to change his will, the law will not permit him to change it.

"In other words, the power must be engrafted on an estate in the thing." - "But if we are to understand by the word "interest", an interest in the thing which is produced by the exercise of the power, then the power and the interest are not united. The power to produce the interest, must be exercised, and by its exercise is extinguished. "The power ceases then the interest commences, and therefore cannot in accurate law language be said to be coupled with it."

And continuing quotes Parsons on Contracts, to same effect. Also Story on Agency - Section 489 - as follows:

" The reason for this exception is entirely compatible with the general ground upon which the rule is founded. It is, that the agent, having the legal title to the property vested in himself is capable of transferring it in his own name, notwithstanding the death of the principal; and the death of the principal therefore has no operation on his act." Citing 2 Livermore on Agency p 302. Also the following cases and authorities.

- Dunlap's Paley Agency 186-7 Note 5
Watson vs. King 4 Camp 272
Gausson vs Morton 10 B & C 731
Walsh vs. Whitcomb 2 Esp 585 etc.etc.

In the estate of Watkins, 121 Calif, 327 - Court holds that a power of attorney is suspended during the time that a decree under the power acts as an administrator of the estate.

United States of America  
Eight pages of printed matter Department of State  
Washington D.C. March 5, 1906, entitled (CLAIMS AGAINST  
FOREIGN GOVERNMENTS)(CIRCULAR) not copied for want of time

San Francisco.  
P.I. Thibault, a Notary Public  
in and for said City and County, residing therein, duly  
commissioned and sworn, do hereby certify, that on the eleventh  
day of August in the year One Thousand Eight Hundred and  
Sixty, I carefully compared the foregoing instrument with  
the originals now in the possession of Juan Julio Warner  
of San Francisco, California, and of which they purport  
to be copies, and found the same were full, true and cor-  
rect transcripts thereof, and of the whole of said ori-  
ginals.

In Witness Whereof, I have here-  
unto set my hand and affixed my official seal, at my office  
in the City and County of San Francisco and State of Cali-  
fornia, this eleventh day of August, in the year One Thousand  
Eight Hundred and Sixty.

(Signed) P.I. Thibault  
Notary Public  
(SEAL)

Following in Hawley v. Smith - 45 Ind. 183 - 204  
quoting old English authorities and going into the whole  
subject.

Note the following from above case.  
Power to sell, coupled with an interest in the thing to be  
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case in this country - HUNT VS ROUSSEAU, EXECUTORS  
reported in 2 Mason - 344 and in 8 Wheat. - 174 Judge  
Story decided the case in the Circuit Court and Marshall  
C.J. rendered the opinion in the Supreme Court (U.S.)

From opinion of Justice Marshall (after a statement  
of the general rule that such power is revocable  
upon death)

"But this rule has sustained some modification. Where  
a letter of attorney forms a part of a contract, and  
is a security for money, or for the performance of any  
act which is deemed valuable, it is generally made ir-  
revocable in terms, or if not so, is deemed irrevocable  
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"Although a letter of attorney depends, from its nature  
on the will of the person making it, and may in general,  
be recalled at his will, yet if he binds himself, for a  
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not to change his will, the law will not permit him to  
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"In other words, the power must be exercised on an estate  
in the thing." - "but if we are to understand by the word  
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duced by the exercise of the power, then the power and  
the interest are not united. The power to produce the  
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mences, and therefore cannot in accurate law language  
be said to be coupled with it."

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same effect. Also STORY on Agency - Section 439 - as  
follows:

"The reason for this exception is entirely com-  
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property vested in himself, is capable of transferring  
it in his own name, notwithstanding the death of the  
principal; and the death of the principal therefore  
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ities.

Dunlap's Exor Agency 186-7 Note 2  
Watson v. King & Camp 275  
Garrison v. Norton 10 B & C 731  
Walsh vs. Whitcomb 2 Esp 282 etc. etc.

In the estate of Watkins, 121 Calif. 327 - Court holds that a power of attorney is suspended during the time that decedent under the power acts as an administrator of the estate.

Right pages of printed matter Department of State Washington D.C. March 2, 1906, entitled (CLAIMS AGAINST FOREIGN GOVERNMENTS) (CIRCULAR) not copied for want of time

United States of America

STATE OF CALIFORNIA )  
City and County of )  
San Francisco. ) ss.

F.I. Thibault, a Notary Public in and for said City and County, residing therein, duly commissioned and sworn, do certify, that on the eleventh day of August in the year One Thousand Eight Hundred and Sixty, I carefully compared the foregoing instrument with the originals now in the possession of Juan Julio Morner of San Francisco, California, and of which they purport to be copies and found the same were full, true and correct transcripts therefrom, and of the whole of said originals.

In Witness Whereof, I have hereunto set my hand and affixed my official seal, at my office in the City and County of San Francisco and State of California, this eleventh day of August, in the year One Thousand Eight Hundred and Sixty.

(Signed) F.I. Thibault  
Notary Public

(SEAL)



United States of America

STATE OF CALIFORNIA

City and County of

San Francisco.

ss.

T. I. Tibbault, a Notary Public

in and for said City and County, residing therein, duly

commissioned and sworn, do certify, that on the eleventh

day of August in the year one thousand eight hundred and

sixty, I carefully compared the foregoing instrument with

the original now in the possession of Juan Julio Morner

of San Francisco, California, and of which they purport

to be copies and found the same were full, true and cor-

rect transcripts thereof, and of the whole of said or-

iginals.

In Witness Whereof, I have here-

unto set my hand and affixed my official seal, at my office

in the City and County of San Francisco and State of Cali-

fornia, this eleventh day of August, in the year one thousand

Eight Hundred and Sixty.

T. I. Tibbault

(Signed)

Notary Public

(SEAL)

ANTONIO MILATOVICH

vs.

MEXICO

Friday April 2nd, 1875

No. 395

Mr. Commissioner Wadsworth delivered the following opinion:

This gentleman was naturalized 12th of June, 1865, after the happening of the several injuries complained of by him.

It is true that he declared his intentions to become a citizen of the United States on the 4th of May 1854, and ought to be regarded as a citizen of the United States from that date, provided he, in the meantime kept up the bona fide intention to become a citizen.

Putting off his final admission for eleven years, at once excited suspicion on this point, and looking into his own evidence we find that he made repeated efforts before June 1865 to settle upon, cultivate and colonize his lands in Mexico, having bought there nearly a million acres for this very purpose.

It is therefore evidence that he had abandoned the intent, bona fide to become a citizen of the United States until his repeated repulse from Mexico, when the importance of becoming a citizen of that country recurred to his mind. But I have never been so liberal on this question of citizenship as to hold that a party seeking the benefit of the American character, can put on and lay off at pleasure, the bona fide purpose, which the law requires him to cherish. (See my views in Zerman's case).

The present Umpire has repeatedly decided contrary to the settled decisions of the former Umpire, and the first Board of Commissioners, that the State connection established by the declaration of intention did not entitle the party to a standing in this Commission; and the present

Friday April 2nd, 1875

No. 395

ANTONIO MILATOVICH

vs.

MEXICO

Mr. Commissioner Zamacona delivered the following opinion:

This gentleman was naturalized 13th of June, 1865, after the happening of the several injuries complained of by him.

It is true that he declared his intention to become a citizen of the United States on the 4th of May 1854, and ought to be regarded as a citizen of the United States from that date, provided he, in the meantime kept up the bona fide intention to become a citizen.

Putting off his final admission for eleven years, at once excited suspicion on this point, and looking into his own evidence we find that he made repeated efforts before June 1865 to settle upon, cultivate and colonize his lands in Mexico, having bought there nearly a million acres for this very purpose.

It is therefore evidence that he had abandoned the intent, bona fide to become a citizen of the United States until his repeated refusal from Mexico, when the importance of becoming a citizen of that country occurred to his mind. But I have never been so liberal on this question of citizenship as to hold that a party seeking the benefit of the American character, can put on and lay off at pleasure, the bona fide purpose, which the law requires him to cherish. (See my views in German's case).

The present Empire has repeatedly decided contrary to the settled decisions of the former Empire, and the first Board of Commissioners, that the State connection established by the declaration of intention did not entitle the party to a standing in this Commission; and the present

claimant, is certainly out of court according to that view. But I decided that the claim must be dismissed for the reason above assigned by me.

ANTONIO MILATOVICH  
vs.  
MEXICO

No. 395

Friday April 2nd, 1875.

Mr. Commissioner Zamacona delivered the following opinion:

This bulky case is decided by one single consideration. The claimant was not a citizen of the United States at the time of the wrong by which he alleges that he was injured. Antonio Milatovich did not become a citizen of the United States until long after all the occurrences of which he complains took place.

The decision of the Empire in the case of Camille Gros vs. Mexico No. 311, leaves no room for argument. None but parties showing that they have been finally admitted to all the rights and privileges of a citizen of the United States are legally competent to bring a claim before us against Mexico.

It is my opinion therefore that the claim should be dismissed.

#24

City of Mexico, Dec.20,1911

Mr.Percy E.Towne,

My dear Sir:

Agreeably to your request I have examined the records of the Government in relation to the title of Ricardo Palacio to the Ex-Mission of Santa Catarina, in Lower California.

I find that a grant was made to Ricardo Palacio on the 30th of December, 1855, with the conditions that he should not transfer to foreigners, not naturalized; that he must survey land within three years and build and settle within said time.

On May 20th, 1861, the Department stated that Palacio had not settled the land; that the grant is for 241 leagues; this being contrary to the law of Colonization of August 18th, 1824, which allows only 11 leagues each grantee. That Palacio contracted with Juan Julio Morner conveying nearly one-half of grant, which violates grant, as Morner was a foreigner, and the government nullifies Palacio's grant.

In June 8th, 1861, Palacio asks for one-third of the land grant and re-imbusement of expenses.

On June 17th, 1861, government denies petition, but on June 20th, grants Palacio 11 leagues as a matter of equity, but with the condition that he must survey and settle within one year.

June 24th, Palacio asks for 3 years to survey and settle; and 2 are allowed him.

In Dec. 1862, Palacio asks for 2 years more, and the Government allows him till June 29th, 1865.

On the 18th of August, 1875, Palacio asks the government to validate his grant for the 11 leagues alleging that the French Intervention had prevented him from surveying and settling.

On the 4th of October 1875, the government denied his petition, basing its action on the reasons above stated for not complying with conditions.

In April 1863, Mr. Mariscal, Minister of Foreign Affairs in passing on the deeds to Thompson and Rutledge, stated that the land is within the 20 leagues limit with United States and the deeds are not valid.

It appears that in May 1876, Robert McKay asks that title to the land conveyed to him by Denton, some 71 sitios be granted to him. The Department denies petition for the several reasons stated above which made grant to Palacio of 1858 null, and hence no title could be deraigned through him.

In Dec. 1872, Foreign relations sends to Department of Fomento, deed to W.S. Thompson and George Rutledge to report as to their validity, and Fomento reports that the Palacio Grant of 1855 was null under the

claimant is certainly out of court according to that view  
But I decided that the claim must be dismissed for the  
reason above assigned by me.

ANTONIO MILSTOVICH

No. 395

.BY

Friday April 2nd, 1875

M E X I C O

Mr. Commissioner Sessons delivered the following opinion:  
This bulky case is decided by one single consideration.  
The claimant was not a citizen of the United States at the  
time of the wrong by which he alleges that he was injured.  
Antonio Milstovich did not become a citizen of the United  
States until long after all the occurrences of which he  
complains took place.  
The decision of the United States in the case of Campbell  
Gros vs. Mexico No. 311, leaves no room for argument.  
None but parties showing that they have been finally ad-  
mitted to all the rights and privileges of a citizen of  
the United States are legally competent to bring a claim  
before us against Mexico.  
It is my opinion therefore that the claim should be  
dismissed.

Mr. Percy B. Towne,

My dear Sir:

Agreeably to your request I have examined the records of the Government in relation to the title of Ricardo Palacio to the Ex-Mission of Santa Catalina, in Lower California.

I find that a grant was made to Ricardo Palacio on the 30th of December, 1855, with the conditions that he should not transfer to foreigners, not naturalized; that he must survey land within three years and build and settle within said time.

On May 20th, 1861, the Department stated that Palacio had not settled the land; that the grant is for 321 leagues; this being contrary to the law of Colonization of August 18th, 1824, which allows only 11 leagues each granted. That Palacio contracted with Juan Julio Morner conveying nearly one-half of grant, which violates grant, as Morner was a foreigner, and the Government nullifies Palacio's grant.

In June 8th, 1861, Palacio asks for one-third of the land grant and re-impairment of expenses.

On June 17th, 1861, Government denies petition, but on June 20th, grants Palacio 11 leagues as a matter of equity, but with the condition that he must survey and settle within one year.

June 24th, Palacio asks for 3 years to survey and settle; and 2 are allowed him.

In Dec. 1862, Palacio asks for 3 years more, and the Government allows him till June 29th, 1865.

On the 18th of August, 1875, Palacio asks the Government to validate his grant for the 11 leagues alleging that the French Intervention had prevented him from surveying and settling.

On the 4th of October, 1875, the Government denied his petition, basing its action on the reasons above stated for not complying with conditions.

In April, 1865, Mr. Mariscal, Minister of Foreign Affairs in passing on the deeds to Thompson and Rutledge, stated that the land is within the 20 leagues limit with United States and the deeds are not valid.

It appears that in May 1876, Robert McKay asks that title to the land conveyed to him by Benton, some 71 acres be granted to him. The Department denies petition for the several reasons stated above which made grant to Palacio of 1855 null, and hence no title could be derived through him.

In Dec. 1872, Foreign relations sends to Department of Fomento, deed to W.S. Thompson and George Rutledge to report as to their validity, and Fomento reports that the Palacio Grant of 1855 was null under the

law of March 14th, 1861 for lack of compliance with conditions of grant and also because the original survey was not filed, but only what purported to be a copy. Also because the grant was for 241 leagues this being contrary to the law of 18th of August, 1824: also because Palacio had sold part of land to Morner who was a foreigner not naturalized, and further because Palacio had not surveyed and settled by the 30th of June 1865.

The Department further states that deeds to Thompson and Rutledge are void, being contrary to laws relating to foreigners, of 11th of March 1842, February 1st 1856 and 10th of March 1857.

In October 1898 the government reiterates nullity of the Palacio grant.

It appears that the land, or part of it was granted to Louis Huller for the Lower California Land & Colonization Co.

It results that it would be futile to attempt to obtain any results by any efforts to derive benefit from the Palacio Grant.

Sincerely yours,

Y. Supelveda

Attorney-at-Law.

RESIDENCE OF ANTONIO MILATOVICH

As shown by The San Francisco Directory.

- 
- 1856-7 Antonio Milatovich - tailor, 159 Sacramento  
 1856 Antonio Milatovich - Sacramento near Kearney  
 1859 Antoine Milatovich - merchant tailor - 159 Sacramento  
 Vincent Milatovich 353 Stockton  
 1860 - Antonio Milatovich  
 1861--2 Antonio Milatovich - tailor and draper - 647 Sacramento ( new NO.)  
 1862 -3 Antonio Milatovich - merchant tailor 647 Sacramento, dwelling, (S.E. Jones & O'Farrell  
 1863 - 4Antonio Milatovich - Same as above  
 1864 -5 - - - - -  
 1866 Antonio Milatovich - dwelling Alta between Montgomery & Sansom  
 1867 - - - - -  
 1868 - - - - -  
 1870 Antonio Milatovich - dwelling McAllister near Van Ness Avenue  
 1871 Antonio Milatovich - dwelling between Van Ness Avenue & Polk  
 1872 Anthony Milatovich - merchant - dwelling between Van Ness Avenue & Polk  
 1873 - - - - -  
 1874 Antonio Milatovich merchant - between Van Ness Avenue & Polk.  
 1875 Antonio Milatovich residence, McAllister between Van Ness & Polk  
 1876-7 Anton Milatovich - dwelling McAllister between Van Ness & Polk  
 1877 - - - - -  
 1877-8 " - - - - -  
 1878 Antonio Milatovich - real estate - residence 395 McAllister  
 1878 -9 Vincent Milatovich capitalist dwelling 1024 Stockton  
 1879 -80 Antonio Milatovich - residence McAllister between Van Ness & Polk

From "Sared" records:

2257 Joe Milatovich } possibly has  
 3125 J. Milatovich } no bearing  
 908 Maria K }

History of Fed. States

H.H. Bancroft, Vol. XI - For Mex States

Milatovich's Grant of 193 acres located in the

of land laws.

"Mex. Mex. & Mex." 1865 567-8

Dept 10.

Will dated September 17th, 1889.

Will filed August 13th, 1901, consisting of last will and renunciation of executors.

Testimony of subscribing witnesses on proof of will.

That Joseph Milatovich is applicant for letters of administration with will annexed, in estate of Antonio Milatovich, deceased.

Left personal property nominally valued at \$50. Real-----

Dated April 24th, 1902.

Bond, of Joseph Milatovich, Administrator with Will

annexed. Filed May 6th, 1902.

Mathew Brady, Notary Public  
Edward C. Harrison  
Wm. E. White  
Jos. Milatovich

Order appointing, Jos. Milatovich as Administrator with

Will annexed in the above estate signed April 24th 1902.

Certificate of proof of will (Wm. E. White Attorney for administrator with Will annexed) filed April 24th 1902, shows that Antonio Milatovich died June 27th, 1901 in the City and County of San Francisco. That the will was admitted to probate; that the will was signed in presence of Albert Raymond and Jacob Samuels.

Judge Troutt - Judge

From "Sared" records:

8259 Jos Milatovich	)	Possibly has
3125 J. Milatovich	(	no bearing
908 Maria M	)	

History of Pac. States

H. H. Bancroft, Vol. XI - Nor Mex States Texas  
P 728 - note 11-2

Milatovich's Grant of 193 sitios failed through infringement of land laws.

"Mex. Mem. al Emp. "1865 567-3

As shown by The San Francisco Directory.

1856-7 Antonio Milatovich - tailor, 159 Sacramento  
 1856 Antonio Milatovich - Sacramento near Kearney  
 1859 Antonio Milatovich - merchant tailor - 159 Sacramento  
 Vincent Milatovich 355 Stockton  
 1860 - Antonio Milatovich  
 1861--2 Antonio Milatovich - tailor and draper - 647 Sacramento (New No.)  
 1862-3 Antonio Milatovich - merchant tailor 647 Sacramento, dwelling, S.E. Jones & O'Farrell  
 1863 - Antonio Milatovich - same as above  
 1864 - Antonio Milatovich - dwelling also between Montgomery & Sanson  
 1867 -  
 1868 -  
 1870 Antonio Milatovich - dwelling McAllister near Van Ness Avenue  
 1873 Antonio Milatovich - dwelling between Van Ness Avenue & Polk  
 1875 Antonio Milatovich - merchant - dwelling between Van Ness Avenue & Polk  
 1874 Antonio Milatovich merchant - between Van Ness Avenue & Polk.  
 1875 Antonio Milatovich residence, McAllister between Van Ness & Polk  
 1876-7 Anton Milatovich - dwelling McAllister between Van Ness & Polk  
 1877 -  
 1878 Antonio Milatovich - real estate - residence 339 McAllister  
 1878-9 Vincent Milatovich capitalist dwelling 1024 Stockton  
 1879-80 Antonio Milatovich - residence McAllister between Van Ness & Polk

Information from conversation with Adolpho Givanovich  
1084 Capp St. San Francisco.

He is uncle of Joseph Milatovich. Brother-in-law of  
Antonio Milatovich.

Anna Marchini, now living with Adolpho Givanovich  
is Antonio's deceased wife's sister, or Antonio's sis-  
ter-in-law and Joseph Milatovich, aunt.

Joseph Milatovich had a younger brother, who died  
in Mexico.

Antonio Milatovich went to Tepic about 1865. Remained  
until about 1868. Left about the time of Maximilian's  
death. Owned a ranch at Tepic, known as "Rancho Salado."  
Probably sold this property in San Francisco.

Adolpho Givanovich lived with Antonio Milatovich  
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died there was no San Francisco property left to divide.

Antonio Milatovich came from Sidney Australia to  
San Francisco. He was born in Stolivo (suburb of City  
of Cattaro) Dalmatia, Austria.

Adolpho Givanovich claims that Antonio Milatovich  
deeded some small portion of the Santa Catalina ranch to  
him, (Adolpho Givanovich) perhaps 500 acres. Doesn't  
know where the deed is now. Was drawn in Spanish by  
a local Notary Public of San Francisco. This about three  
or four years before Antonio Milatovich died.

Antonio Milatovich originally owned the site of  
Hibernian Bank San Francisco and other valuable prop-  
erties which he traded or sold to further his Mexican  
projects.

Antonio Milatovich took out his second naturaliza-  
tion papers in San Francisco. Names, Pringle and one  
Kirkpatrick as originally Antonio Milatovich's attorneys

States that Joseph Milatovich's had a wife who is  
now dead, but no children.

Burial of Joseph Milatovich attended to by Adolpho  
Givanovich (Holy Cross). Antonio Milatovich probably  
buried in old Catholic Cemetery, family lot.

Will dated September 17th, 1889.  
Will filed August 13th, 1901, consisting of last will  
and remembrance of executor.  
Testimony of subscribing witnesses on proof of will.  
That Joseph Milatovich is applicant for letters of  
administration with will annexed, in estate of Antonio  
Milatovich, deceased.  
Left personal property nominally valued at \$50,000.  
Dated April 24th, 1902.  
Bond of Joseph Milatovich, Administrator with Will  
annexed. Filed May 6th, 1902.  
Matthew Brady, Notary Public  
Edward G. Harrison  
Wm. E. White  
Jos. Milatovich  
Order appointing Jos. Milatovich as Administrator with  
Will annexed in the above estate signed April 24th 1902.  
Certificate of proof of will (Wm. E. White Attorney for ad-  
ministrator with will annexed) filed April 24th 1902, shows  
that Antonio Milatovich died June 27th, 1901 in the City  
and County of San Francisco. That the will was admitted  
to probate; that the will was signed in presence of Albert  
Raymond and Jacob Samuels.  
Judge Trout - Judge  
From "Sara" records:  
3229 Jos. Milatovich (Possibly has  
3129 J. Milatovich (no bearing  
308 Maria M  
History of Pec. States  
H. H. Bancroft, Vol. XI - For Mex States Texas  
p 128 - note 11-2  
Milatovich's Grant of 193 acres failed through infringement  
of land laws.  
"Mex. Mem. of Imp." 1865 p 57-8

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Burial of Joseph Milatovich attended to by Adolpho Givonovich (Holy Cross). Antonio Milatovich probably buried in old Catholic Cemetery, family lot.

Authorities.

REVOCABILITY - Exceptions to - Coupled with an interest.

CYC Vol. 31 p 1314. Note 98.

" And where the Power of Attorney forms part of a contract, and is security for money or for the performance of any act which is deemed valuable, it is generally made irrevocable in terms, and if not so, is deemed irrevocable in law, and the power may be exercised at any time, and is not affected by the death of the person who created it."

Citing Durborow vs. Eppens, 65 N.J.L. 10-46 Atl. 582.

And further that:

" A contract by which a claimant employs an attorney to prosecute the claim and also the attorney undertakes to prosecute the same for a contingent fee, is more than a mere contract of agency, and is not terminated by the employer's death."

- McCartney v Corhine 108 Ill.App. 282
- Price v Haeberle 25 Mo.App 201,
- Gropel v Hodges 112 N.Y. 419
- Wylie v Cox 15 Howard (U.S. 415)

but see - Wainwright v. Masseburg - 129 N.C. 46

Authority coupled with an interest.

- Current Law, Vol. 7 p 88, 89 & notes.
- Cyc. Vol. 31 p 1316 Note 8, note terminated by death.
- California cases, Norton vs. Whitehead - 84 Cal. (Where the power was in terms declared to be irrevocable.)
- Frink vs. Roe - 70 Cal. 296
- Travers vs Crane 15 Cal. 12,
- and New York - Babrowsky vs. Lodge 129 App. Div. (N.Y.) 695.

May be exercised at least as far as to protect the estate of the agent - Cyc Vol. 31 F 1317 citing Collins vs. Hopkins, 7 Ia. 463 Kimball vs Powers - (Okla 1907) 91 Pac 687 Lightner's Appeal 82 Pa. 301.

Interest must be in the subject matter.

- Cyc. Vol. 31 p 1317 Citing (Note 9)
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88

Power irrevocable where coupled with an interest.

Barr vs. Schroeder - 32 Cal 609 - 17  
(leading cases)

"Is irrevocable though not coupled with an interest, as where power is given as security for the payment of money - or where express agreement to make it irrevocable, - or nature of contract shows that such was express intention of parties." 32 Cal. 609 - 17.

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"is irrevocable though not coupled with an interest as where power is given as security for the payment of money or where express agreement to make it irrevocable - or nature of contract shows that such was express intention of parties." 32 Cal. 609 - 17.

1. The federal land law now in force in Mexico provides that all original titles shall be considered good and valid and not subject to revision, confirmation or ratification by the Federal Government, providing the said titles were issued by competent authority and in accordance with the laws in force at the time of their issuance; and providing further that the boundaries and distances as recited in the titles correspond to the ground claimed by the grantees!

11. From the foregoing citation there are three points to be determined as regards the validity of an original title: (1) As to the competency of the authority by whom the title was issued; (2) As to the compliance with the laws in force at the time of its issuance; and (3) As to the agreement of the notes and bonds as recited in the title, with the boundaries and areas claimed by the grantees.

111. AUTHORITY: In 1822 the Provisional Governing Board in representation of the Mexican Nation, granted to Iturbide one million pesos and twenty square leagues of land. In 1835 the Mexican Congress, a representative body, reaffirmed the said grant and ordered that the amount of money mentioned should be paid to the heirs of the grantee as soon as the condition of the National Treasury would permit thereof, and that the twenty leagues of land should be granted in New Mexico, Upper or Lower California, on such terms as the interested parties might agree upon. In 1853 the President of the Mexican Republic decreed that thirty leagues square land should be granted to the heirs of Iturbide in Lower California, Sonora, or Sinaloa, in payment of \$200,000 (pesos) to apply on the one million pesos referred to in the original grant of 1822 in the sale or colonization of the said lands, the grantees to be

subject to the laws in force and applicable thereto. In 1854 the Department of Fomento was given jurisdiction in and authority to determine the manner of granting titles to public lands. The concession of the whole of the Lands included in the Ex-Mission, Santa Catarina was made by the Supreme Government of Mexico, by the instrument dated December 20, 1855, to Ricardo Palacio.

John Julius Morner, as the representative and attorney-in-fact of Ricardo Palacio was invested with the possession of said land by the proper officers of the government with all formalities on the 30th day of August, 1858. The Minister of Fomento, Melchor Ocampo, on August 8th 1859, found that all the conditions of the grant had been complied with and confirmed the title given to Ricardo Palacio.

From the preceding references we deduce the following conclusions: That the grant of the lands in Lower California, have been provided for, made and confirmed by the highest authority of the Federal Government of Mexico the first legal requisite of original titles, that they be issued by competent authority, has been satisfied.

IV. FORMALITIES: In 1857 the President of Mexico acting within the powers conferred upon him by the plan of Yutla, issued a decree providing for the appointment of a Judge of Surveys (Juez de Deslinde) to supervise the surveying and mapping of each separate body of land situated in the frontier, or far from the center of population. Pursuant to this law, Antonio Vizcano was appointed (we have not seen the official appointment but reference is made in the court autos to his appointment.) to accompany the party of engineers in charge of Captain Stone, to survey the lands in Lower California. The

I. The Federal Law now in force in Mexico provides that all original titles shall be considered good and valid and not subject to revision, confirmation or ratification by the Federal Government, providing the said titles were issued by competent authority and in accordance with the laws in force at the time of their issuance; and providing further that the boundaries and distances as recited in the titles correspond to the ground claimed by the grantees.

II. From the foregoing it follows that the titles to be determined as regards the validity of an original title: (1) As to the competency of the authority by whom the title was issued; (2) As to the compliance with the laws in force at the time of its issuance; and (3) As to the agreement of the notes and bonds as recited in the title, with the boundaries and areas claimed by the grantees.

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From the preceding references we deduce the following conclusions: That the grant of the lands in Lower California, have been provided for, made and confirmed by the highest authority of the Federal Government of Mexico, that they are the first legal residue of original titles, that they have been issued by competent authority, has been satisfied.

IV. FORMALITIES: In 1857 the President of Mexico acting within the powers conferred upon him by the plan of Yutla, issued a decree providing for the appointment of a Judge of Surveys (Jefe de Despacho) to supervise the surveying and mapping of each separate body of land situated in the frontier, or far from the center of population. Pursuant to this law, Antonio Viscano was appointed (we have not seen the official appointment but reference is made in the court order to his appointment.) to accompany the party of engineers in charge of Captain Stone, to survey the lands in Lower California. The

corresponding map was presented to Fomento, which we have seen, and have seen that it bears the seal or stamp, of the said Department. The title itself recites that the land included in the grant is the same as that indicated in the map made and presented to Fomento by Captain Stone.

From the foregoing we are of the opinion that the title in question satisfies the second requirement of legal titles, that they be issued in compliance with the laws in force at the time of issuance.

The third requisite is complied with in that the specific grant was described as the lands of the extinct Mission of Santa Catarina.

V. We cannot determine the compliance with the third requisite, that the ground described in the title corresponds with that claimed by the grantees; but since the latter have never had physical possession of the lands, this need not operate as a deterrent consideration. An official resurvey might be petitioned for and thereby definitely determine the boundaries of the lands.

VI. COURT DECISIONS: The two decisions contained in the court records grow out of an opposition filed by the Ministerio Publico against the inventories presented to the court for approval by the executrix of the Iturbide estate, on the ground that in the said inventories were listed certain properties and rights that did not belong to the estate. The properties and rights referred to are growing out of the Federal Grants made to the Emperor Iturbide. An appeal from the decision of the lower courts in which approval was refused was taken to the Court of Second Instance (Second Sala), a common law court without jurisdiction in Federal matters. This court reversed the decision of the lower, holding that since no one directly interested in the estate, as heirs or creditors, had ap-

posed the approval of the inventories presented by the executrix that such an approval should be given by the Court of First Instance; that the question of the legality of the grants made to the estate was not pertinent to the point on which the appeal was taken and was not within the jurisdiction of the common courts, and therefore, this question should not, and did not enter into the decision of the Sale. For the reasons expressed, this decision of the Court of Second Instance does not in the least effect the title to the land in Lower California.

Since we have not examined the documents forming the title expediente, or title proceedings, we cannot state that there has been no decision of the Federal Courts relative to this title. Copies of decisions, when they have to do with the legality of an original title, or, when, in any way, they affect the rights of the Nation in the public lands, are sent to the Department of Fomento and are attached to the corresponding expediente as record. We have received information through private sources, however, that no such decision is attached to the expediente of the land granted in Lower California.

As to whether any laws in force at the time, or subsequently enacted, could operate to defeat the titles, two questions might here be raised: (1) As to whether the grantees were required to settle, cultivate, improve or otherwise use the said lands; and (2) As to whether the area granted was in contravention of any law then in force.

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Prior to 1813 the grantees of public lands were re-  
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"In no general law relating to Government Lands  
 (Between July 8, 1813, and July 22, 1863) was the re-  
 quirement imposed that the grantees cultivate or graze  
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 require that colonists improve and cultivate the lands  
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The condition contained in the law of 1863 relative  
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Orozco, in the work cited, asks if this pro-  
 vision is still in force, and, answering his own query,  
 says:

"Certainly not: Article 27 of the Federal Consti-  
 tution of 1857, in guaranteeing the inviolability of  
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As to whether the Mexican Government could legally  
 nullify said titles:- a grant of land from the Govern-  
 ment is sometimes referred to as an "adjudication"  
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 elements as a contract of purchase and sale entered into  
 by and between individuals, the thing sold, the price

18  
 32

paid and the consent of the parties. Orozco, in the work cited, makes clear the nature of the jurisdictional principles involved, as between the Government and the Grantee. He says:

" The nature of the civil act and all the legal effects of the issuance of title to individuals to public lands, through the satisfaction of the just price thereof, are governed by the laws, principles and doctrines that apply to a contract of purchase and sale . . . . Anyone legally competent to acquire property in real estate, who locates and pays for public lands, complying with each and all of the requirements relating thereto, and who pays the price established by law, acquires a perfect property right in, and the right of possession of, the lands so located: a right as perfect, or more perfect, than that acquired by a purchaser, as between individuals, to the delivery of the thing bought and paid for, pursuant to a voluntary and valid agreement."

By this grant, therefore, the lands passed out of the ownership of the Government as effectually as property passes from one individual to another by proper conveyance, and the Government could no more nullify the titles than an individual could nullify a deed, and the general principle that contracts legally entered into can be rescinded only by consent of the parties thereto or by court of competent jurisdiction; to assert an adverse doctrine would be to oppose the most elementary principle of the laws of contracts, and in contravention of the fundamental principles of the Constitution of 1857 relative to the inviolability of property. These titles, therefore, must remain in force until a competent court by exact application of the provisions of the laws relating thereto (which this report aims to set forth), declares them void. An administrative officer, or Department, should it attempt to pass on these titles, would be outside its province of action, and its findings in the matter would or could, in no way, affect said titles.

As to subsequent grants of the lands in Lower California made by the Mexican Government.- This is the most vitally important question to be faced in connection with these lands. By reference to the map attached

Prior to 1813 the grantees of public lands were required, as a condition attached to their titles, to cultivate, graze or otherwise use or improve the same, but this requirement was discontinued after that date and was not again imposed in any general law until that of July 22, 1863. During the intervening period several laws were passed relative to colonization, which provided that colonies should improve the lands given them, failure to do so would defeat their titles; but these were special and not general laws, and applied only to colonization, and did not affect lands granted for other purposes.

Whatano Luis Orozco sums the matter up in the following language:

"In no general law relating to Government lands (between July 8, 1813, and July 22, 1863) was the requirement imposed that the grantees cultivate or graze stock thereon. . . . Some laws on colonization justify the belief that colonies improve and cultivate the lands given them in their respective colonies. . . . But these laws have for their object the colonization of our territory, and do not apply to the large areas of Government land embraced therein. . . . No general law respecting the acquisition of such land subsequently made these requirements."

The condition contained in the law of 1863 relative to the cultivation and settlement of lands granted by the Government expressly applied only to lands subsequently granted, and therefore, could not affect retroactively the titles which had been previously issued.

Orozco, in the work cited, says in this connection as still in force, and, answering his own query, says:

"Certainly not: Article 27 of the Federal Constitution of 1857, in guaranteeing the inviolability of property rights, establishes no other restrictions than those relating to civil and religious corporations. . . . Therefore, the provision contained in the said article of the law under consideration must be considered as having been abrogated."

As to whether the Mexican Government could legally nullify said titles:- a grant of land from the Government is sometimes referred to as an "adjudication" and sometimes as a "sale" (venta); it contains the same elements as a contract of purchase and sale entered into by and between individuals, the thing sold, the price

President's (Commonfort) decree of March 10th, 1857 provides that grants of land in Lower California, made by Political Chiefs, shall not be valid until ratified by the Supreme Government; also that sales by possessors to foreigners shall not be valid unless approved by the Supreme Government.

The Constitution which went into effect in September 1857, altered the legal meaning of the word "foreigner" and classified as Mexicans, those foreigners who had acquired real property in the Republic, provided they did not manifest their intention to preserve their nationality.

This article of the constitution of necessity abrogated the Decree of Commonfort, as to these foreigners who in good faith were seeking to establish themselves in the Republic. (For above see Archivo Mex. Leyes y Dec. tomo 40 page 259.)

On March 13th, 1861, President Juarez promulgated a decree inducing foreigners to acquire land in the Republic. Article 1. Every foreigner, who, if by himself alone or in partnership with other foreigners, purchase a piece of land for agricultural purposes, or for the establishment of a country estate, shall be exempt for five years, counting from the day on which the writing of purchase was delivered of every class of contributions, except that he shall only be obliged to present the plan and boundary of his possession to the Minister of Fomento; without which requisite he cannot enjoy the favor specified.

On March 14th, 1861 Juarez by Decrees avoided certain grants in which Milatovich held an interest, to wit:

August 16, 1863 - DECREE OF THE GOVERNMENT - It is declared who is Guilty of Treason, and the Penalties with which they must be Punished. - The citizen President has been pleased to address me the decree which follows:

Benito Juarez, Constitutional President of the United States of Mexico, to the inhabitants thereof: KNOW YE: That in the use of the ample powers with which I find myself vested, I have thought proper to decree in the following:

1133. TRAITORS, Who are .- ART 1. They will consider guilty of treason, and will suffer confiscation of their property, besides other punishments which the law affixes to this crime:

- (1) The public functionaries of the intervention with pay or without it.
- (2) The employees of the same in the civil, municipal or military order, and the agents or commissioners in any of those branches. Responsibility does not follow for services given in primary education, nor for the gratuitous acts for the public beneficence.
- (3) The functionaries of constitutional order by the simple act of remaining, without permission of the corresponding supreme power, in places submitted to the intervention unless they can prove within the term which is fixed for them their impossibility to change their residences.
- (4) The public employees of any branch who, without the permission before referred to, shall remain in said places, save the exception which the preceding fraction determines.



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4. The public employees of any branch who, without the permission before referred to, shall remain in said places, save the exception which the preceding fraction determines.

(5) Those who receive subventions, titles or decorations from the French Government, or from the so-called government of the intervention.

(6) Those who with their writings defend it and solicit the destruction of the national institutions.

(7) Foreigners who by their conduct with the invaders of the country, or with their allied traitors, shall break the neutrality to which they are obligated and damage the republic or its legitimate government.

(8) In general all those who serve or help, directly or indirectly the cause of the intervention.

1134. Appointment of employes. - ART 2. The general government will appoint or designate, by itself or through the medium of the governors of the States the employes who in each one of them must engage in the confiscation.

1135. Duties of the Employes. Art.3. As soon as employes shall receive their appointment, they will ask any authority, office, or person for the date which they can furnish them about the properties which ought to be confiscated, and they will proceed immediately to secure it, appointing under their responsibility administrators to manage said properties, and experts to value the same. They will give an account, without delay of each proceeding (expediente) to the department of gobernacion, in order that it may communicate to them the supreme resolution on the sale or return of the property.

1136. Property how sold. - ART 4. If the resolution be in favor of a sale, the following provisions will be observed:

1. Treating of personal property, or of urban property, they shall be sold to the best bidder, and of the liquidated product the expenses of administration and sale having been discounted they will be made into three parts:

- ONE FOR PUBLIC TREASURY.
- ANOTHER WHICH WILL BE DEPOSITED AT THE DISPOSITION OF THE WAR DEPARTMENT TO REWARD THOSE WHO SHALL HAVE BECOME MUTILATED IN THE WAR OR OTHERWISE SHALL HAVE BECOME DISTINGUISHED, AND TO GIVE TO THE WIDOWS AND ORPHANS OF THOSE KILLED IN THE CAMPAIGN.

AND A THIRD, PART TO INDEMNIFY THOSE WHO HAVE HAD SUFFERED BY EMBARGO OR CONFISCATION OF THEIR INTERESTS ON THE PART OF THE INTERVENTION.

2. The Country estates will be divided into halves: The first will be sold to the best bidder, and the product will be distributed as is said in the preceding fraction.

The second will be apportioned in kind, among the inhabitants of the respective districts which shall have taken arms to defend the independence.

Even persons must be comprehended in this appointment, who, without being citizens of the district, may solicit that participation, doing valuable services of the nature expressed.

(2) Those who receive appointments, titles or decorations from the French Government, or from the so-called Government of the Intervention.

(3) Those who with their writings defend it and solicit the destruction of the national institutions.

(4) Foreigners who by their conduct with the invaders of the country, or with their allied traitors, shall break the neutrality to which they are obligated and damage the republic or the legitimate government.

(5) In general all those who serve or help, directly or indirectly the cause of the intervention.

1134. Appointment of employees. - ART 5. The general government will appoint or designate, by itself or through the medium of the governors of the States the employees who in each one of them must engage in the confiscation.

1135. Titles of the Employees. ART 5. As soon as employees shall receive their appointment, they will ask any authority, office, or person for the date which they can furnish them about the properties which ought to be confiscated, and they will proceed immediately to secure it, appointing under their responsibility administrators to manage said properties, and experts to value the same. They will give an account, without delay or each proceeding (expediente) to the department of Gobernacion, in order that it may communicate to them the supreme resolution on the sale or return of the property.

1136. Property how sold. - ART 4. If the resolution be in favor of a sale, the following provisions will be observed:

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ONE FOR PUBLIC TREASURY. ANOTHER WHICH WILL BE DEPOSITED AT THE DISPOSITION OF THE WAR DEPARTMENT TO REWARD THOSE WHO SHALL HAVE BECOME MUTILATED IN THE WAR OR OTHERWISE SHALL HAVE BECOME DISTINGUISHED, AND TO GIVE TO THE WIDOWS AND ORPHANS OF THOSE KILLED IN THE CAMPAIGN.

AND A THIRD PART TO INDEMNIFY THOSE WHO HAVE HAD THEIR INTERESTS ON THE PART OF THE INTERVENTION.

2. The Country estates will be divided into halves: The first will be sold to the best bidder, and the product will be distributed as is said in the preceding fraction.

The second will be apportioned in kind, among the inhabitants of the respective districts which shall have taken arms to defend the independence.

Even persons must be comprehended in this appointment, who, without being citizens of the district, may solicit that partition being valuable services of the nature expressed.

3. In every case of public sale the publications (pregones) shall be given in half of the terms which the common law fixes.

4. When there shall be no bidders for the two-thirds part of the appraised value, the employees of which this law speaks can reduce the value to one-third part, or either rent out the country property or the part thereof, the sale of which shall have been frustrated; and the rents which in this manner those properties may produce, shall be adjudicated in due proportion, to the exchequer and to the persons among whom the price shall have been distributed.

1137. Publication of confiscated property. - ART 5. Thirty days after these employees shall have commenced to perform their commission, they shall publish a list of all the properties existing in the territory of the respective state, and to which the confiscation ought to be extended. This list being published, denunciations of said property can be admitted.

1138. Denunciations How Made. - ART 6. These denunciations will be made before the Department of Government (gubernacion), directly, or through the medium of the respective employees in each state. To the denunciation will be applied the quarter part of the product of the properties denounced, which shall be deducted from them immediately after the expenses.

1139. Grounds of Confiscation. ART.7. The questions as to the motive for confiscation and to the dominion of preference in the property sequestered, will be resolved by a Board of Ministers, and the determination hereon will be executed without recourse.

1140. Al cabala not Required. ART 8. The transfer of the dominion which shall be made in virtue of this law shall not require the tax on sales (alcabala), nor can the alienation be suspended for want of proof of the payment of the taxes being in current money.

1141. Rebels. ART.9. Those who shall resist the execution of this decree shall be considered as rebels.

WHEREFORE, I order it to be printed, published, circulated, and that due compliance be given thereto.

Palace of the Federal Government, in San Luis Potosi the sixteenth day of August, 1863. Benito Juarez, to the citizen Fuente, Minister of Foreign relations and gubernacion. And I transcribe it to you for your understanding and compliance.

San Luis Potosi, August 16, 1863. To the Citizen Fuente.

It has been maintained that the law of July 20th, 1863 is unconstitutional from the fact that it was passed by President Juarez, and that the Federal Constitution does not grant such power to the Executive, but merely bestows executive authority upon the president.

ART. 50, of the Constitution reads as follows:

"The Supreme power of the federation for its exercise shall be divided into legislative, executive and judicial. Two, or more of these powers cannot be united in one person or corporation, or be deposited in one individual."

The language of the above seems explicit, and where the powers of the President alone, defined by the above quoted Article, the said law would be clearly unconstitutional: but ART. 83, of the same Constitution, reads as follows:

"All the regulations, decree and orders of the President, must be signed by the secretary entrusted with the control of the Department to which the business of the subject matter corresponds. Without this requisite they shall not be obeyed."

In Spanish reads as follows:

ART. 83, Todos los reglamentos, decretos y ordenes del presidente, debaran ir firmados por el Secretario del despacho encargado del despacho encargado del ramo aque el asunto cooresponde, Sin este requisito no seran obedecidos."

The language just quoted grants by direct implication the power to pass regulations, decrees and orders to control certain departments.

The law of July 20th, 1863, was passed by President Juarez for the control of the section of Fomento or department of Internal affairs and might therefore be understood to be a regulation for that department in the nature, force and effect of a law, in the absence of a law of Congress to the contrary, or when passed without the approval of Congress.

On June 7th, 1861, the Federal Congress passed a decree suspending the guaranties of the Constitution for the term of six months, and if any of these guaranties were infringed upon by said law of July 20th, 1863, thereafter passed, the suspension spoken of would still vest in the President extraordinary powers, and no rights guarantied by the Constitution would be injured in the absence of said guaranties.

That Congress had the power to pass such a law in time of war, is recognized by the law of Nations and also by the Mexican Constitution, and under said suspension said law was passed from the fact, that, on December 11th 1861, the suspension of guaranties and grant of extraordinary powers to the Executive was renewed and extended;

In every case of public sale the publications (prezores) shall be given in half of the terms which the common law fixes.

When there shall be no bidders for the two-thirds part of the appraised value, the appraiser of which this law speaks can reduce the value to one-third part, or either rent out the country property or the part thereof, the sale of which shall have been frustrated; and the rents which in this manner those properties may produce, shall be adjusted in due proportion, to the exchequer and to the persons among whom the price shall have been distributed.

ART. 57. Publication of confiscated property. Thirty days after these employees shall have commenced to perform their commission, they shall publish a list of all the properties existing in the territory of the respective state, and to which the confiscation ought to be extended. This list being published, denunciations of said property can be admitted.

ART. 58. Denunciations how made. - ART. 59. These denunciations will be made before the Department of Government (Gobernacion), directly, or through the medium of the respective employees in each state. To the denunciations will be applied the quarter part of the product of the properties denounced, which shall be deducted from them immediately after the expenses.

ART. 60. Grounds of Confiscation. ART. 61. The questions as to the motive for confiscation and to the domain of preference in the property designated, will be resolved by a Board of Ministers, and the determination hereon will be executed without recourse.

ART. 62. Capital not required. ART. 63. The transfer of the domain which shall be made in virtue of this law shall not require the tax on sales (alcabala), nor can the alienation be suspended for want of proof of the payment of the taxes being in current money.

ART. 64. Rebels. ART. 65. Those who shall resist the execution of this decree shall be considered as rebels.

WHEREFORE, I order it to be printed, published, circulated, and that due compliance be given thereto.

Palace of the Federal Government, in San Luis Potosi the sixteenth day of August, 1863. Benito Juarez, to the Mexican Senate, Minister of Foreign Relations and Government. And I transcribe it to you for your understanding and compliance.

San Luis Potosi, August 16, 1863. To the Mexican Senate.

It has been maintained that the law of July 20th, 1863, is unconstitutional from the fact that it was passed by President Juárez, and that the Federal Constitution does not grant such power to the Executive, but merely bestows executive authority upon the President.

ART. 50, of the Constitution reads as follows: "The Supreme power of the Federation for its exercise shall be divided into legislative, executive and judicial. Two, or more of these powers cannot be united in one person or corporation, or be deposited in one individual."

The language of the above seems explicit, and where the powers of the President alone, defined by the above quoted Article, the said law would be clearly unconstitutional: but ART. 88, of the same Constitution, reads as follows:

"All the regulations, decrees and orders of the President, must be signed by the secretary entrusted with the control of the Department to which the business of the subject matter corresponds. Without this requisite they shall not be obeyed."

In Spanish reads as follows:

ART. 88, Todos los reglamentos, decretos y ordenes del presidente, deberán ir firmados por el secretario del despacho encargado del despacho correspondiente, sin este requisito no serán obedecidos."

The language just quoted grants by direct implication the power to pass regulations, decrees and orders to control certain departments.

The law of July 20th, 1863, was passed by President Juárez for the control of the section of Foreign Affairs for the control of internal affairs and might therefore be understood to be a regulation for that department in the nature, force and effect of a law, in the absence of a law of Congress to the contrary, or when passed without the approval of Congress.

On June 7th, 1861, the Federal Congress passed a decree suspending the guarantees of the Constitution for the term of six months, and if any of these guarantees were infringed upon by said law of July 20th, 1863, thereafter passed, the suspension spoken of would still vest in the President extraordinary powers, and no rights guaranteed by the Constitution would be infringed in the absence of said guarantees.

That Congress had the power to pass such a law in time of war, is recognized by the law of Nations and also by the Mexican Constitution, and under said suspension said law was passed from the fact, that, on December 15th, 1861, the suspension of guarantees and grant of extraordinary powers to the Executive was renewed and extended;

and bestowing thereby ample powers on the executive by which he was "empowered in the fullest possible manner to take whatever steps he might think proper under existing circumstances, without any other restriction, than that of saving the independence and integrity of the national territory, the established form of government, the constitution and the principles of the laws of reform; said suspension of guaranties to continue for thirty days after the assembling of Congress."

On May 3d, 1862, the last named law was continued in force by a special act of Congress, and again renewed for six months on October 27th, 1862.

On May 28th, 1863, the last named law was prolonged so as to continue for thirty days after the assembling of Congress.

Under this last law, to wit: May 28th, 1863, and during the interim between lawful session of Congress in which the last law was passed and before the reassembling of Congress, or during the period in which the law suspending the constitutional guaranties and granting extraordinary powers to the executive was in force and effect the said law of July 20th, 1863 was passed as aforesaid.

WHEREFORE, it may be maintained that if Congress had the authority to grant such powers to the Executive, then the said law of July 20th, 1863, does not contravene the Constitution, since said granted power existed at the date of said law.

But independent of the fact whether Congress had the authority to delegate such powers to the Executive, the Constitution by ART. 88, heretofore quoted, grants by direct implication ample authority to the executive to promulgate regulations, decrees and orders aforesaid, and in the opinion of some Mexican lawyers, the law of July 20th 1863, is Constitutional, and they are further borne out in this interpretation by the fact that Congress in various instances has recognized said law as being in force and effect.

There seems to be a distinction, however, in Mexico, between the terms (leyes) laws, and (decretos) decrees; since the "Bases de Organismo Polit, of June 12, 1843, (not now in force) in Arts. 25, 64, 66 declare their meaning to be as follows:

The general Congress composed of the Senate and Chamber of Deputies, has alone, the right of making, interpreting, and abrogating laws, which must be sanctioned by the President of the Republic before they can have effect. The disposition of Congress sanctioned as above are called laws, when they are general in their nature, and decrees, when they apply to some determinate place, time, person or corporation."

The law of July 20th, 1863, is undoubtedly a law general in its nature and application, and if we accept this definition, then ART. 33 of the Constitution does not apply; since it especially mentions regulation, decrees and orders of the President, "and not laws enacted, or promulgated as legislative acts by the President; and from this standpoint, in the absence of the power of Congress to delegate its legislative functions to the president, the law of July 20th, would unquestionably be unconstitutional. This, power, however, we understand the Constitution, to vest in Congress in case of supreme necessity, (as in case of war, which, at the time the said law was enacted, did in fact exist). Then it must be remembered that the "Bases of Political Organization of 1843," from which we have quoted was repealed by the adoption of the present Constitution, (adopted in 1857), and whether at the time said law of July 20th, 1863, was promulgated, the words, "regulations, decrees and orders" contemplated the definitions given in said "Bases" and did not contemplate Leys or Laws general in their nature and application might be an open question.

We take it to mean however, that said ART. 33 of the Constitution, contemplated those laws under the general term "Decrees", which in cases of imperious necessity the President might be empowered to promulgate, when granted such authority by Congress, vesting him with supreme dictatorial power, or merging the legislative with the executive authority. And from this standpoint we accept the said law of July 20th, 1863 as being Constitutional, and in any event, the acquisition of public lands by foreigners need not be by denouncement, since the government may pass title to public lands to whomsoever it may deem proper, by grant of said lands by the lawful authority.

#### 672. POWERS UNDER ARTICLE 7, OF THE PLAN OF TACUBAYA

The power granted in Article 7 of said plan of Tacubaya was limited to "the reorganization of all branches of public administration."

2. Such power was essential to bring into being an established form of government. When the government became reorganized the power ceased. The plan of Tacubaya was in the form of a Constitution. It was not intended to vest the law making power in the executive beyond that of reorganization. Hence, any law after the formation of the government made by Santa Anna, was ultra-vires - beyond his power, therefore null and void.

#### 673. Santa Anna's power to reorganize.

On the 17th of March, 1853, Santa Anna was again declared to be elected President. Under the basis for administration of the Republic, issued by him April 22, 1853, he seems only to claim power in ARTICLE 1, SECTION 3, to "reorganize all the branches of public administration" But, on the 30th of January, 1854, he issued a law which declared that of March 11, 1842 to be in force. He likewise herein exceeded his powers, as he did on decreeing the said law of March 11.

and bestowing thereby ample powers on the executive by which he was "empowered in the fullest possible manner to take whatever steps he might think proper under existing circumstances, without any other restriction, than that of saving the independence and integrity of the national territory, the established form of government, the constitution and the principles of the laws of reform; and suspension of guarantees to continue for thirty days after the assembling of Congress."

On May 3d, 1862, the last named law was contained in force by a special act of Congress, and again renewed for six months on October 27th, 1862.

On May 28th, 1863, the last named law was pronounced so as to continue for thirty days after the assembling of Congress.

Under this last law, to wit: May 28th, 1863, and during the interim between lawful sessions of Congress in which the last law was passed and before the reassembling of Congress, or during the period in which the law suspended the constitutional guarantees and granting extraordinary powers to the executive was in force and effect the said law of July 20th, 1863 was passed as aforesaid.

WHETHER, it may be maintained that if Congress had the authority to grant such powers to the Executive, then the said law of July 20th, 1863, does not contravene the Constitution, since said granted power existed at the date of said law.

But independent of the fact whether Congress had the authority to delegate such powers to the Executive, the Constitution by ART. 33, heretofore quoted, grants by direct implication ample authority to the executive to promulgate regulations, decrees and orders aforesaid, and in the opinion of some Mexican lawyers, the law of July 20th, 1863, is Constitutional, and they are further borne out in this interpretation by the fact that Congress in various instances has recognized said law as being in force and effect.

There seems to be a distinction, however, in Mexico, between the terms (Leyes) laws, and (decretos) decrees; since the "Bases de Organiza Polit. de June 12, 1843," (not now in force) in Arts. 25, 26, 27, 28, declare their meaning to be as follows:

The General Congress composed of the Senate and Chamber of Deputies, has alone, the right of making, interpreting, and abrogating laws, which must be sanctioned by the President of the Republic before they can have effect. The disposition of Congress sanctioned as above are called laws, when they are general in their nature, and decrees, when they apply to some determinate place, time, person or corporation."

The law of July 20th, 1855, is undoubtedly a law general in its nature and application, and if we accept this definition, then ART. 88 of the Constitution does not apply; since it especially mentions regulations, decrees and orders of the President, and not laws enacted or promulgated as legislative acts by the President; and from this standpoint in the absence of the power of Congress to delegate its legislative functions to the President, the law of July 20th, would undoubtedly be unconstitutional. This, however, we understand the Constitution, to vest in Congress in case of extreme necessity, (as in case of war, which at the time the said law was enacted, did in fact exist), then it must be remembered that the "Bases of Political Organization of 1847," from which we have quoted was repealed by the adoption of the present Constitution, (adopted in 1857), and whether at the time said law of July 20th, 1855, was promulgated, the words, "regulations, decrees and orders" contemplated the definitions given in said "Bases" and did not contemplate laws or laws general in their nature and application might be an open question.

We take it to mean however, that said ART. 88 of the Constitution, contemplated those laws under the general term "Decrees", which in cases of imperious necessity the President might be empowered to promulgate, when granted such authority by Congress, vesting him with supreme dictatorial power, or merging the legislative with the executive authority. And from this standpoint we accept the said law of July 20th, 1855, as being constitutional, and in any event, the abrogation of public lands by foreigners need not be by denouncement, since the government may pass title to public lands to whomsoever it may deem proper, by grant of said lands by the lawful authority.

675. POWERS UNDER ARTICLE 7, OF THE PLAN OF TACHAYAS. The power granted in Article 7 of said plan of Tachayas was limited to "the reorganization of all branches of public administration."

Such power was essential to bring into being an established form of government. When the government became reorganized the power ceased. The plan of Tachayas was in the form of a Constitution. It was not intended to vest the law making power in the executive beyond that of reorganization. Hence, any law after the formation of the government made by Santa Anna, was ultra-vires beyond his power, therefore null and void.

Santa Anna's power to reorganize. On the 17th of March, 1855, Santa Anna was again declared to be elected President. Under the basis for administration of the Republic, issued by him April 22, 1855, he seems only to claim power in ARTICLE 1, SECTION 3, to "reorganize all the branches of public administration." But, on the 30th of January, 1854, he issued a law which declared that of March 11, 1842 to be in force. He likewise herein exceeded his powers, as he did on declaring the said law of March 11.

#### 674. PLAN OF AYUTLA.

On the 1st of March, 1854, the Chiefs of the army assembled at Ayutla and proclaimed the plan of Ayutla. On the 17th of the said month certain officers met in the fort of San Diego, Acapulco, and modified the said plan. The third article of said reform plan was as follows:

"The Provisional President, without any other restriction than that of respecting inviolably individual guaranties, shall be henceforth invested with ample faculties to reform all branches of the public administration, to attend to the security and independence of the nation, to promote all that may lead to its prosperity, aggrandizement, and progress."

#### 675. COMMONFORT.

On the 8th day of December, 1855, Commonfort came into power as Provisional President, and on the 1st day of February, 1856, relative to foreigners, which is cited in this chapter. ARTICLE 2, thereof, prohibited foreigners from acquiring land on the frontier within 20 leagues of the boundary without the previous permission of the Supreme Government.

ARTICLE 3, Foreigners who desire to obtain land within said limit must present a petition to the Department of Public Works (fomento) accompanied with a report of the governor of the State or Territory where the land is located.

#### 676. LAW OF 1863.

The law of July 22, 1863, relative to what may be termed the pre-emption law, declared the foregoing law, of February 1, 1856, to be in force. This law, in the opinion of the author, gives no additional force to the former one.

#### 677. FEDERAL CONSTITUTION.

The present constitution of Mexico was adopted February 5, 1857, and it would seem from its language that it has abrogated said laws of 1842 and 1856.

ARTICLE 1, SECTION 1, of the Constitution reads as follows:

"The Mexican people recognize that the rights of man are the basis and the object of social institutions." Consequently it declares that all the laws and all the authorities of the country must respect and sustain the guaranties which the present Constitution grants.

The interpretation of the rights of man by Blackstone is as follows:

"The rights of man consist in the free use, disposal, and enjoyment of all his acquisitions without any control or dimution save only by the laws of the land." 1 Blackstone's Commentaries 138.

#### 678. Object of said Article 1.

Said Article 1 was adopted for the very purpose of preventing any restraint being placed upon man in the free use, disposal and enjoyment of his acquisition, save what may be essential for the welfare of the nation, such as taxes, the right of eminent domain etc. These exceptions are applicable to mankind - to citizens as well as foreigners. This view is supported by Article 33 of the Constitution, which reads as follows:

674. PLAN OF AYUTLA. On the 1st of March, 1854, the Chiefs of the army assembled at Ayutla and proclaimed the plan of Ayutla. On the 17th of the said month certain officers met in the Fort of San Diego, Acapulco, and modified the said plan. The third article of said reform plan was as follows: "The Provisional President, without any other restriction than that of respecting inviolably individual guarantees, shall be henceforth invested with ample faculties to reform all branches of the public administration, to attend to the security and independence of the nation, to promote all that may lead to its prosperity, aggrandizement, and progress."

675. COMMONWEALTH. On the 8th day of December, 1855, Commonwealth came into power as Provisional President, and on the 1st day of February, 1856, relative to foreigners, which is cited in this chapter. ARTICLE 2, thereof, prohibited foreigners from acquiring land on the frontier within 50 leagues of the boundary without the previous permission of the Supreme Government. ARTICLE 3, foreigners who desire to obtain land within said limits must present a petition to the Department of Public Works (Fomento) accompanied with a report of the Governor of the State or Territory where the land is located.

676. LAW OF 1853. The law of July 22, 1853, relative to what may be termed the pre-emption law, declared the foregoing law of February 1, 1850, to be in force. This law, in the opinion of the author, gives no additional force to the former one.

677. FEDERAL CONSTITUTION. The present constitution of Mexico was adopted February 5, 1857, and it would seem from its language that it has abrogated said laws of 1842 and 1856. ARTICLE 1, SECTION 1, of the Constitution reads as follows: "The Mexican people recognize that the rights of man are the basis and the object of social institutions." Consequently it declares that all the laws and all the authorities of the country must respect and maintain the guarantees which the present Constitution grants. The interpretation of the rights of man by Blackstone is as follows: "The rights of man consist in the free use, disposal, and enjoyment of all his acquisitions without any control or diminution save only by the laws of the land." Blackstone's Commentaries 138.

678. Object of said Article 1. Said Article 1 was adopted for the very purpose of preventing any restraint being placed upon man in the free use, disposal and enjoyment of his acquisitions, save what may be essential for the welfare of the nation, such as taxes, the right of eminent domain, etc. These exceptions are applicable to mankind - to citizens as well as foreigners. This view is supported by Article 33 of the Constitution, which reads as follows:

679. ARTICLE 33 of the CONSTITUTION. Foreigners are those who do not possess the qualities in ARTICLE 30. They have the right to guaranty granted in Section 1, Title 1, of the present Constitution, save that in all cases the power which the government has in expelling all pernicious foreigners. They are obliged to contribute to the public expenses in the manner which the law requires, and to obey and respect the institutions, laws, authorities of the country, being subject to the judgments and decrees of the tribunals, without being able to have any other resources than those which the law concedes to Mexicans.

680. THE WORD "CITIZEN" NOT MENTIONED. It will be observed that the first section of the Constitution composed of 29 Articles, does not contain the word "citizen" but speaks of "man and persons". All the rights given to man in said section 1, title 1, are expressly guaranteed to foreigners in said Article 33. It likewise impliedly guarantees to them all the resources as regards property which Mexican citizens possess.

RIGHTS BY IMPLICATION. Chief Justice Marshall observed that when the Constitution of the United States said that private property should not be taken for public use without a just compensation being paid therefor, it impliedly said that it could be taken by paying for it. When the Mexican Constitution says that foreigners shall have no other recourses than those which the law concedes to Mexicans, it impliedly says that foreigners shall have all the recourses which Mexicans have. This is but a fair, unrestrained and reasonable construction of the language of the Constitution.

682. INTERPRETATION OF LANGUAGE. The very just and salutary doctrine was laid down by the Third United States Court in Pennsylvania upon the interpretation of language as follows:

"Laws are construed strictly to save a right or avoid a penalty, and liberally, to give a remedy or effect an object declared in the law."

683. OPINION OF VELASCO. Senor Maria del Castillo, a member of the Constitutional convention in 1856, was a Justice of the Supreme Court of Mexico when he published the work entitled "OBSERVATIONS FOR THE STUDY OF MEXICAN CONSTITUTIONAL LAW (1871)" in which he uses the following language in speaking of Article 33:

"Foreigners have the right to guarantees granted by the Constitution, because they are in favor of the rights of man; with one limitation, and that is, the power which the government has to expel pernicious foreigners. The Republic gives a free hospitality to all foreigners and it invites them with the riches of the country". It would seem from the foregoing reasons the said laws of 1842 and 1856 were clearly made nugatory by the Constitution.

ARTICLE 22 OF THE CONSTITUTION. Foreigners are those who do not possess the qualities granted in ARTICLE 30. They have the right to property granted in Section 1, Title 1, of the present Constitution, save that in all cases the power which the Government has in expelling all foreigners is limited. They are obliged to contribute to the public expenses in the manner which the law requires, and to obey and respect the laws, decrees, judgments and decrees of the tribunals, without being able to have any other resources than those which the law concedes to Mexicans.

THE WORD "CITIZEN" NOT MENTIONED. It will be observed that the first section of the Constitution composed of 29 Articles, does not contain the word "citizen" but speaks of "men and persons". All the rights given to men in said section 1, Title 1, are expressly guaranteed to foreigners in said Article 22. It likewise implicitly guarantees to them all the resources as regards property which Mexican citizens possess.

RIGHTS BY IMPLICATION. Chief Justice Marshall observed that when the Constitution of the United States said that private property should not be taken for public use without a just compensation being paid therefor, it implicitly said that it could be taken by paying for it. When the Mexican Constitution says that foreigners shall have no other resources than those which the law concedes to Mexicans, it implicitly says that foreigners shall have all the resources which Mexicans have. This is but a fair, unrestricted and reasonable construction of the language of the Constitution.

INTERPRETATION OF LANGUAGE. The very just and salutary doctrine was laid down by the Third United States Court in Pennsylvania upon the interpretation of language as follows:

"Laws are construed strictly to save a right or avoid a penalty, and liberally, to give a remedy or effect an object declared in the law."

OPINION OF VIALOSO. Senor Maria del Castillo, a member of the Constitutional convention in 1858, was a Justice of the Supreme Court of Mexico when he published the work entitled "OBSERVATIONS FOR THE STUDY OF MEXICAN CONSTITUTIONAL LAW (1871)" in which he uses the following language in speaking of Article 22:

"Foreigners have the right to guarantee granted by the Constitution, because they are in favor of the kind of men with one limitation, and that is the power which the government has to expel foreigners. The Republic gives a free hospitality to all foreigners and it treats them with the same of the country. It would seem from the foregoing reasons the said laws of 1842 and 1858 were clearly made necessary by the Constitution."

684. EXECUTION OF THE LAWS OF 1842 and 1856 PROHIBITED. If the views herein expressed are not well supported by the reasoning advanced, other reasons may be given to the proposition that ARTICLE 22 and 27 of the Constitution absolutely prohibit the execution of said laws of 1842 and 1856.

By Article 22, CONFISCATION IS FOREVER PROHIBITED. ARTICLE 27, reads as follows:

"The property of persons cannot be occupied without their consent unless for the cause of public utility and previous indemnification."

2. It may be observed that the word "persons" is used, not "citizens". If a foreigner owning land in Mexico should absent himself for more than two years, and the property should be sold, that would be confiscation. If possession were taken without his consent that would be in violation of ARTICLE 27, as property can only be taken for public utility by paying for it. That is merely the right of eminent domain which belongs to every sovereign power and is applicable to all persons within its jurisdiction, whether citizen or foreigner.

685. STATE RIGHTS.

If the opinion of the author be not correct as already expressed as to the interpretation of the Constitution, then he submits that the Federal Government has no control over the subject matter, and that it comes within the jurisdiction of state power.

ARTICLE 117 OF THE MEXICAN FEDERAL CONSTITUTION IS AS FOLLOWS:

"The powers which are not expressly conceded by this Constitution to the Federal functionaries are understood as reserved to the States."

Now power is given the the Federal Government over the subject-matter unless as contended for herein, supra. Either the power is taken away by the Federal Constitution from all the authorities to prohibit foreigners from holding real estate, as assumed herein, or it is vested in the states.

686. UNITED STATES V. FOX.

In the case of the United States v. Fox 94 U.S. 315 the Court held: "The several states of the Union possess the power to regulate the tenure of real property and transfer the rule of its descent, and the extent to which a testamentary disposition of it may be exercised by its owners. The titles and modes of disposition of real property within the state, whether intervivos or testamentary, are not matters placed under the control of federal authority. Such control would be foreign to the purposes for which the Federal Government was created and would seriously embarrass the landed interestas of the state."

687. IRVINE V. MARSHALL.

In the case of Irvine v. Marshall, 20 How. 558, the same court said: "The United States being the owners of the public lands within the states and territories, have the right to say to whom, in what mode, and by what title they shall be conveyed. We hold the true principle to be this: That whenever the question in any court, State or Federal, is whether a title to land which was once the property of the United States has passed, that question must be resolved by the laws of the United States; but wherever according to those laws the title shall have passed, then the property, like all other property in the state, is subject to the



684. EXECUTION OF THE LAWS OF 1842 AND 1856 PROHIBITED.  
If the views herein expressed are not well supported by the reasoning advanced, other reasons may be given to the proposition that ARTICLE 30 and 31 of the Constitution absolutely prohibit the execution of said laws of 1842 and 1856.

By Article 30, CONSTITUTION IS FOREVER PROHIBITED.  
ARTICLE 31, reads as follows:  
"The property of persons cannot be occupied without their consent unless for the cause of public utility and previous indemnification."  
It may be observed that the word "persons" is used, not "citizens." Mexico should spend itself for more than two years, and the property should be sold, that would be contrary to the Constitution. If possession were taken without his consent that would be in violation of ARTICLE 31, as property can only be taken for public utility by expropriation. That is merely the right of eminent domain which belongs to every sovereign power and is applicable to all persons within its jurisdiction, whether citizen or foreigner.

685. STATE RIGHTS.  
If the opinion of the author be not correct as already expressed as to the interpretation of the Constitution, then he admits that the Federal Government has no control over the subject matter, and that it comes within the jurisdiction of state power.

ARTICLE 31 OF THE MEXICAN FEDERAL CONSTITUTION IS AS FOLLOWS:  
"The powers which are not expressly conceded by this Constitution to the Federal authorities are understood as reserved to the States."

Now power is given to the Federal Government over the subject-matter unless as contended for herein. Either the power is taken away by the Federal Constitution from all the authorities to prohibit foreigners from holding real estate, as assumed herein, or it is vested in the states.

686. UNITED STATES V. FOX.  
In the case of the United States v. Fox 94 U.S. 515 the Court held: "The several states of the Union possess the power to regulate the tenure of real property and transfer the rule of its descent, and the extent to which a testamentary disposition of it may be exercised by its owners. The titles and modes of disposition of real property within the state, whether interests or testamentary, are not matters placed under the control of federal authority. Such control would be foreign to the purposes for which the Federal Government was created and would seriously embarrass the landed interests of the state."

687. IRVINE V. MARSHALL.  
In the case of Irvine v. Marshall, 20 How. 528 the same court said: "The United States being the owners of the public lands within the states and territories, have the right to say to whom, in what mode, and by what title they shall be conveyed. We hold the true principle to be this: That whenever the question in any court, State or Federal, is whether a title to land which was once the property of the United States has passed, that question must be resolved by the laws of the United States; but wherever according to those laws the title shall have passed, then the property, like all other property in the state, is subject to the

state legislation, so far as that legislation is consistent with the admission that the title passed and vested according to the laws of the United States."

688. LAWS OF 1842 and 1856 VOID.

Whether the Federal Constitution takes away the power from both Federal and State legislatures over the subject matter, or whether it is vested in the states, in either case, the said laws of 1842 and 1856 are void.

689. AS TO THE EFFECT OF A PURCHASE OF LAND BY A FOREIGNER WITHOUT A RESERVATION OF HIS NATIONALITY.

ARTICLE 30, SECTION 2, designates who are Mexicans. Among that class are included foreign purchasers in the following language: "Foreigners who acquire real estate in the republic or have Mexican children, provided they do not manifest their resolution to preserve their nationality." If such a provision can be sustained, then a foreigner who purchases land and fails to make the reservation in the deed, either by accident, mistake, or otherwise, is deprived of the allegiance to his country without any affirmation act, or act of his own.

EUROPEAN DOCTRINE. The general European doctrine is, that no person can by an act of his own, without the consent of the government, put off his allegiance and become alien.

This doctrine of perpetual allegiance grew out of the feudal system. Expatriation is considered in the United States a fundamental right, and when manifested by a person's oath of allegiance to a foreign government, it is sufficient to establish the expatriation of such person, so as to render him no longer subject to the government of his country.

691. CONSENT FOR EXPATRIATION NECESSARY. It has never been asserted that one government can compel a citizen or subject of another government to yield up his allegiance which he owes to his native country, against his own voluntary consent. It may be said that it is a presumption of law that every person is acquainted with the law of the country in which he resides; and therefore, a person buying land without a knowledge in fact of the constitution is nevertheless bound by its provisions. But such a doctrine cannot be applied to the high privilege of allegiance to one's native land. Nothing less than a positive declaration in some form with a bona fide intent to divest himself of his allegiance, can deprive a man thereof. And even this is further than European powers have gone, except by treaty stipulation.

692. DIVISION OF OPINION IN MEXICO.  
The Mexican Jurists are divided in opinion on this question of the right of foreigners to purchase, hold and dispose of real property in contravention of said laws of 1842 and 1846. The author is of opinion that the weight of authority among Mexicans is in favor of the affirmative - that foreigners have such right equally with Mexicans. They are also divided in opinion as to the interpretation of ARTICLE 30, relative to the necessity of reservation of nationality when lands are purchased by foreigners.

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THE GENERAL EUROPEAN DOCTRINE. The general European doctrine is that no person can by an act of his own, without the consent of the government, but of his allegiance and become alien.

This doctrine of perpetual allegiance grew out of the feudal system. Expatriation is considered in the United States a fundamental right, and when manifested by a person's oath of allegiance to a foreign government, it is sufficient to establish the expatriation of such person, so as to render him no longer subject to the government of his country.

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The Mexican Jurists are divided in opinion on this question of the right of foreigners to purchase, hold and dispose of real property in contravention of said laws of 1842 and 1856. The author is of opinion that the weight of authority among Mexicans is in favor of the affirmative - that foreigners have such right equally with Mexicans. They are also divided in opinion as to the interpretation of ARTICLE 30, relative to the necessity of reservation of nationality when lands are purchased by foreigners.

693. CONCLUSIONS.

Assuming that said law of 1842 and 1856 are in force, it may be said in conclusion:

1. That foreigners may purchase and hold within the belt of twenty leagues from the frontier, by obtaining a permission from the executive of the Federal Government, upon petition therefor, accompanied by a favorable report from the governor of the state or territory where the land desired may be situated.
2. That they may purchase within the belt of five leagues from the coast, by obtaining a permission from Congress.
3. That where they purchase outside of either of said belts, and if they wish to be absent, they may return to the country at any time before the expiration of the two years, and remaining a short time, may again depart, thereby technically keeping within the provision of the law.

Under these laws the Mexican authorities of Lower California have denominated all of the Milatovich titles fraudulent and void, and have refused to him, his agents or grantees any access to them.

For the Act Decree above mentioned (see Coleccion de leyes y decretos enero a Abril de 1861 page 52.) (see also the list of titles to land issued in Lower California up to January 17th, 1859 page 56 to 65.)

Milatovich presented his titles to the Commission (at Tia Juana) appointed to adjust titles to land in Lower California, under the law of December 14th, 1874, (El Foro Tomo 3 Num. 147, page 584) which Commission on August 8th 1876, refused to take them into consideration averring that they were void under the law of March 14th 1861.

We suggest that the action of the authorities was illegal for the following reasons:

- (1) That his acquisitions were in good faith, for valuable consideration duly paid to the authorized agents of the Government;
- (2) That they were acquired at the direct invitation of the government;
- (3) That there was no breach or failure in any condition or agreement except what was caused by the government's own act;
- (4) That acquiring lands and endeavoring to occupy them and establish himself in the Republic, he was a Mexican under the Constitution and not a foreigner;
- (5) That the attempted forfeiture of the titles by the Decree of March 14th, 1861, was a usurpation of power by President Juarez, unconstitutional and void.

CONCLUSIONS. Assuming that said law of 1842 and 1856 are in force, it may be said in conclusion: I. That foreigners may purchase and hold within the belt of twenty leagues from the frontier, by obtaining a permit from the executive of the Federal Government, upon petition therefor, accompanied by a favorable report from the governor of the state or territory where the land desired may be situated.

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3. That where they purchase outside of either of said belts, and if they wish to be absent, they may return to the country at any time before the expiration of the two years, and remaining a short time, may again depart, thereby technically keeping within the provision of the law.

Under these laws the Mexican authorities of Lower California have denominated all of the Milatovich titles fraudulent and void, and have refused to him, his agents or grantees any access to them.

For the Act Decree above mentioned (see Collection de leyes y decretos enero a Abril de 1861 page 22.) (see also the list of titles to land issued in Lower California up to January 15th, 1859 page 26 to 27.)

Milatovich presented his title to the Commissioner (at San Juan) appointed to adjust titles to land in Lower California, under the law of December 14th, 1854 (El Foro Tomo 3 Num. 147, page 284) which Commissioner on August 8th 1856, refused to take them into consideration averring that they were void under the law of March 14th 1851.

We suggest that the action of the authorities was illegal for the following reasons:

- (1) That his acquisitions were in good faith, for valuable consideration duly paid to the authorized agents of the Government;
- (2) That they were acquired at the direct invitation of the government;
- (3) That there was no breach or failure in any condition or agreement except what was caused by the Government's own act;
- (4) That acquiring lands and endeavoring to occupy them and establish himself in the Republic, he was a Mexican under the Constitution and not a foreigner;
- (5) That the attempted forfeiture of the titles by the Decree of March 14th, 1851, was a usurpation of power by President Juarez, unconstitutional and void.

(6) The breach of condition, if any such existed, could only be determined by a judicial proceeding.

(7) That even assuming that Milatovich was a foreigner, the grant to him directly was a a foreigner of 11 leagues on the frontier of Lower California, especially confirmed by the Supreme Government on August 8th, 1859, was a governmental permission to hold lands within the prohibited zone.

(8) That his right in these lands were the vested rights acquired in good faith, and for value paid, and could only be divested for cause judicially determined.

(See decision of District Court of Socomusco State of Chiapas, El Foro, Tomo 8 Num.50.)

Lapse of time, no rights of third parties intervening, cannot affect his rights, the government having at all times denied him power to comply with agreements and conditions.

His Declaration of Intention to become a citizen of the United States of North America, made in 1854, was a direct manifestation of putting off his original nationality as an Austrian, and his abandonment of this during all the period he was endeavoring to establish himself in Mexico, and until after the Mexican authorities had finally driven him off, was the strongest evidence that he did not "manifest his intention to preserve his nationality" as set forth in the proviso to the Constitutional Provision. (Title 1, Sec.2, Fraction 3.)

P.S. Since writing the above, Mr. Goldbaum has informed me his maps are for sale by Loising & Co. Stationers, San Diego, California.

MISC. FILE NUMBER 506

AMERICAN CONSULAR SERVICE

ENSENADA, LOWER CALIFORNIA, MEXICO

June 13, 1912.

M. Andrews, Esq.,

916 Balboa Building,

San Francisco, California

SIR:

Replying to your letter of June 8, you can buy a good map of the Northern District of Lower California from David Goldbaum Sr., Ensenada (General delivery) for \$5.00

I am Sir,

Your obedient Servant  
Fred Simbich  
American Consul

P.S. Since writing the above, Mr. Goldbaum has informed me his maps are for sale by Losing & Co, Stationers, San Diego, California.

F.S.

To the Honorable Senor,  
Ministro de Fomento  
Mexico City, Mexico  
Dear Sir:

Will you please inform me, by reference to the "Grand Register of Properties" who is now the owner of a certain ranch known as the "Rancho de Santa Catarina" or "Rancho de la Misión de Santa Catarina"? This rancho is located in Lower California, in the Northern District East of Ensenada. Its Northern boundary is the town of San de Castillo. Can you tell me if the Rancho was last transferred to the present owner and by what title he now holds.

I am informed that Sr. Antonio Miletovich once had the title to this ranch, and that he purchased same in the year 1845 or about that date.

Thanking you for the trouble I remain

Yours very truly,

(Signed) George Leslie Stewart

(8) The breach of condition, if any such existed, could only be determined by a judicial proceeding.

(7) That even assuming that Miletovich was a forger, the grant to him directly was a forger of 11 leagues on the frontier of Lower California, especially confirmed by the Supreme Government on August 27th, 1852, was a Governmental permission to hold lands within the prohibited zone.

(8) That his right in these lands were the vested rights acquired in good faith, and for value paid, and could only be divested for cause judicially determined.

(See decision of District Court of Sacramento State of California, El Toro, Tomo 8 Num. 50.)

In case of time, no rights of third parties intervening, cannot affect his rights, the government having at all times denied him power to comply with agreements and conditions.

His Declaration of intention to become a citizen of the United States of North America, made in 1854, was a direct manifestation of putting off his original nationality as an American, and his abandonment of this during all the period he was endeavoring to establish himself in Mexico, and until after the Mexican authorities had finally driven him off, was the strongest evidence that he did not "manifest his intention to serve his nationality" as set forth in the provision to the Constitutional Provision. (Title 1, Sec. 2, Fraction 3.)

MISC. FILE NUMBER 506  
AMERICAN CONSULAR SERVICE  
ENSENADA, LOWER CALIFORNIA, MEXICO  
June 13, 1912.

M. Andrews, Esq.,  
216 Balboa Building,  
San Francisco, California

SIR:

Replying to your letter of June 8, you can buy a  
good map of the Northern District of Lower California  
from David Goldbaum Sr., (Marxanda General Delivery)

for \$5.00

I am Sir,  
Your obedient servant  
Fred Stibler  
American Consul

P.S. Since writing the above, Mr. Goldbaum has  
informed me his maps are for sale by Loebing & Co.,  
Stationers, San Diego, California.

P.S.

DEPARTMENT OF STATE  
WASHINGTON  
July 6, 1912.

Bureau of rolls  
and library

Mr. George Leslie Stewart  
251 Kearney street  
Charleston Building  
San Francisco, California.

SIR:

In response to your letter of the 29th ultimo, I am  
directed by the Secretary of State to advise you that the  
petition filed in the case of Antonio Milatovich, No 395  
before the United States and Mexican Claim Commission,  
shows that said claim is for the denial of the possess-  
ion of about nine hundred and eighty-five thousand  
acres of lands purchased in Lower California.

You are further advised that the petition states that  
the claimant purchased titles to several tracts of land  
in Lower California, one of which being known as "Mission  
of Santa Catarina."

I am Sir,

Yours obedient servant

(Signed)

J.A. Towne

Chief of Bureau.

POSTAL CARD

July 16, 1912.

To the Honorable Senor,  
Ministro de Fomento  
Mexico City, Mexico  
Dear Sir:

Will you please inform me, by reference to the  
"Grand Register of Properties" who is now the owner of a  
certain ranch known as the "Rancho de Santa Catarina"?  
or "Rancho de la Ex-Mission de Santa Catarina?" This  
ranch is located in Lower California, in the Northern  
District East of Ensenada. Its Northern boundary is  
the town of Real de Castillo. Can you tell me when the  
Rancho was last transferred to the present owner and by  
what title he now holds.

I am informed that Sr. Antonio Milatovich once  
had the title to this ranch, and that he purchased same  
in the year 1865 or about that date.

Thanking you for the trouble I remain

Yours very truly,

(Signed) George Leslie Stewart

Bureau of Land  
and Survey

Mr. George Leslie Stewart  
251 Kearney Street  
Charleston Building  
San Francisco, California

SIR:

In response to your letter of the 29th ultimo, I am directed by the Secretary of State to advise you that the petition filed in the case of Antonio Mlatovich, No. 395 before the United States and Mexican Claims Commission, shows that said claim is for the rental of the possession of about nine hundred and eighty-five thousand acres of lands purchased in Lower California.

You are further advised that the petition states that the claimant purchased titles to several tracts of land in Lower California, one of which being known as "Mission of Santa Catalina."

I am Sir,

Your obedient servant

J.A. Towne (Signed)

Chief of Bureau

July 16, 1912

To the Honorable Senator,  
Ministero de Fomento  
Mexico City, Mexico

Dear Sir:

Will you please inform me, by reference to the "Grand Register of Properties" who is now the owner of a certain ranch known as the "Rancho de Santa Catalina" or "Rancho de la Ex-Mision de Santa Catalina" in the Northern District East of Pasadena. Its Northern boundary is the town of Real de Castillo. Can you tell me when the Rancho was last transferred to the present owner and by what title he now holds.

I am informed that Sr. Antonio Mlatovich once had the title to this ranch, and that he purchased same in the year 1865 or about that date.

Thanking you for the trouble I remain

Yours very truly,

(Signed) George Leslie Stewart

Del Secretario de Fomento

Mexico, 25, de julio de 1912

Sr. George Leslie Stewart  
San Francisco  
EUA

Muy senor mio:

Con referencia a la atenta de usted fecha 16 del actual le manidesto que como no esta inscrito en el Gran Registro de la Propiedad de la Republica el "Rancho de Santa Santarina" ubicado en la Bajo California, no me es posible darle los datos que me pide.

Con este motive me suscribo de usted como su afmo, atento y S.S.

R.L.Heming.

(Envelope addressed)

Correspondencia Particular  
del Secretario de Fomento

Sr. George Leslie Stewart

San Francisco  
251 Kearney Street  
Charleston Bldg.  
E.U.A.

POSTAL CARD

Co. Clerk General Dept. F.No.6 Brown & Power Stationery Co.

OFFICE OF COUNTY CLERK

M. George Leslie Stewart  
Case Number 13885 Probate  
Filed 3 day of Aug 1912  
has been assigned to Dept number 9

H.I. Mulcrevy

County Clerk and Ex-Officio Clerk of the Superior Court.

ADDRESSED TO

George Leslie Stewart  
251 Kearney Street  
City

Del Secretario de Fomento

Mexico, 25 de Julio de 1912

Mr. George Leslie Stewart  
San Francisco

My dear Sir:  
Com referencia a la atenta de usted fecha 16 del actual le mandamos que como no esta inscrito en el Gran Registro de la Propiedad de la Republica el "Rancho de Santa Gertrudis" ubicado en la Baja California, no me es posible darle los datos que me pide.  
Con este motivo me suscribo de usted como su atento y s.s. amigo.

R. L. Heming.

(Envelope addressed)

Correspondencia Particular  
del Secretario de Fomento

Mr. George Leslie Stewart

San Francisco  
U.S.A.

251 Kearney Street  
Charleston Bldg.

POSTAL CARD

Co. Clark General Dept. F.No. 6 Brown & Power Stationery Co.

OFFICE OF COUNTY CLERK

M. George Leslie Stewart  
Case Number 13885  
Filed 3 day of Aug 1912  
has been assigned to Dept number 9

H. I. Malarevy

County Clerk and Ex-Officio Clerk of the Superior Court.

ADDRESSED TO

George Leslie Stewart  
251 Kearney Street  
City

Washington

August 6, 1912.

Mr. George L. Stewart,  
251 Kearney Street,  
San Francisco, California.

SIR:  
The Department has received your letter of the 27th ultimo, in which you request directions as to the proper manner of presenting claims against Mexico and inquire whether there is a commission in Washington to consider such claims.

In reply you are informed that a claimant desiring to submit a claim against the Government of Mexico should prepare such claim according to instructions contained in the enclosed circular and forward it to the Department which will in due time give the claim careful consideration. In this connection, however, the Department desires to invite your attention to the following generally accepted principles of international laws; that a claimant against a foreign government is not usually regarded (subject to certain exceptions not at present necessary to consider) as entitled to diplomatic intervention by his own government, until he has exhausted his legal remedies in the courts of the country against which he makes the claim; and that a foreign government is not ordinarily responsible to alien residents for injuries they may receive within its territories for insurgents whose conduct it cannot control.

You are further informed that there is no commission at Washington before which a claimant may present his claim, of either a temporary or permanent character appointed to pass upon claims of American citizens against the Government of Mexico. The Mexican Government, however, has created a commission in Mexico City which is now sitting and which has been given jurisdiction in certain cases arising out of the Madero revolution.

I am, sir,

Your obedient servant

T Knox

Encl. Claim Circular  
412.11/130

Washington

August 6, 1912

Mr. George L. Stewart,  
251 Kearney Street,  
San Francisco, California.

SIR:

The Department has received your letter of the 27th  
inst., in which you request directions as to the proper  
manner of presenting claims against Mexico and inquire  
whether there is a commission in Washington to consider  
such claims.

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which will in due time give the claim careful considera-  
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(subject to certain exceptions not at present necessary  
to consider) as entitled to diplomatic intervention by  
his own government, until he has exhausted his legal re-  
m- edies in the courts of the country against which he makes  
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ernment of Mexico. The Mexican Government, however, has  
created a commission in Mexico City which is now sitting  
and which has been given jurisdiction in certain cases  
arising out of the Mexican revolution.

I am, Sir,

Your obedient servant

T Knox

Enc. Claim Circular  
MS. 11.130

Los Angeles, Cal. Oct 18, 1912.

Mr. George L. Stewart,  
251 Kearney Street  
San Francisco, California

Dear Sir:

We can now offer you the following old maps of  
Lower California at the prices named. On receipt of  
the price we will forward any or all of them prepaid.

- "Carta Erferica de las Costas y Golfo de
- "California Mamado Mar de Cortes gen compred
- "desde et Cabo hasta il Paerto de S Diego
- "Construide segun las observaciones y trabajos
- "Hectors en las Covetas Descybierta y Struida
- "Y de varios Individuce de la Real Srmada
- "Por la Direccion Hidrografica de Madred Auc
- "de 1825

Size of map is 22 X 36 inches, including charts  
of the ports of Guaymas, La Pag and Pichilmgne. This  
copy belonged to the celebrated Mexican Geologist,  
A del Castillo and contains his faint pencil notations  
(of places he visited in his explorations) on its face.  
It is mounted on cloth and is in a fair state of pres-  
ervation. The price is \$10.00

Yours very truly,  
JONES' BOOK STORE  
Per WHW

WHW-AD



Mr. George L. Stewart,  
251 Kearney Street  
San Francisco, California

Dear Sir:

We can now offer you the following old maps of

Lower California at the prices named. On receipt of

the price we will forward any or all of them prepaid.

"Carta Erivica de las Costas y Golfo de  
California Mando Mar de Cortes con comarca  
desde el Cabo hasta el Puerto de S. Diego"  
"Comaridas sean las observaciones y trabajos  
hechos en las costas Desapierza y S. Diego"  
"Y de varios individuos de la Real Armada  
"Por la Direccion Hidrografica de Madrid Ano  
"de 1825"

Size of map is 22 X 36 inches, including charts  
of the ports of Guaymas, La Paz and Michoacan. This

copy belonged to the celebrated Mexican Geologist,

A del Castillo and contains his faint pencil notations

(of places he visited in his explorations) on its face.

It is mounted on cloth and is in a fair state of pres-

ervation. The price is \$10.00

Yours very truly,

JONES' BOOK STORE

Per WHW

WHW-AD

GENERAL NOTES.

Father Ubach once attempted to have recorded a few  
minor deeds of grants of Milatovich. (North Co., Ubach  
Arch. vs Jos. Sodic Alemany) and the authorities would not  
accept them. (Inference is, Diaz had official posted.)

Diaz evidently thought that Milatovich should never  
have ever approached Maximilian.

There was never any confiscation of the Milatovich  
holdings, as happened to others, who befriended Maxi-  
milian.

Facio's report to Diaz on titles of Lower California  
possession etc., - see office at Washington. Copyrighted.  
Printed San Francisco. Yellow pamphlet. Diaz later was  
offended at Facio.

Alex R. Forbes, teacher of languages, author on early  
Spanish records - aided Milatovich on expeditions. (Living  
now.)

Milatovich had right to a judicial hearing. Failure  
of local officials to forward papers should not prejude-  
dice him.

4. It is further agreed that the party  
herein, that no money shall be paid to said party  
except from the sale of said lands, as shown on said  
specifications; and it is further agreed that the party  
shall be the sole and exclusive assignee of all the  
rights of the party herein, and that the party  
shall be the sole and exclusive assignee of all the  
obligations.

4. It is further agreed that the party  
herein shall have the right to sell and dispose  
of the said lands, and that the party herein  
shall be the sole and exclusive assignee of all the  
rights of the party herein, and that the party  
shall be the sole and exclusive assignee of all the  
obligations.

5. The party of the second part hereby agree to  
freely and promptly re-execute anew any and all documents  
or conveyances, which by reason of faulty descriptions,  
the law of this country or Mexico shall require or  
which for other good reasons shall, or may become neces-  
sary to properly transfer title to property belonging  
to said second party or which he may have already trans-  
ferred to said party or his assigns.

6. It is understood that this contract is a per-  
sonal obligation upon the part of the party of the  
second part, who shall assign the rights hereunder  
without the consent of the party of the first part, or  
his assigns.

CONTRACT.

THIS AGREEMENT Made and entered into this 7th day of June A.D.1912, between George L. Stewart, of the City of Berkley, County of Alameda, State of California, the party of the first part, and Joseph Milatovich, of the City and County of San Francisco, State of California, party of the second part, WITNESSETH:

That whereas, the party of the second part has heretofore conveyed to the party of the first part certain lands in Mexico, towit, the Santa Catarina rancho, and

Whereas, the party of the first part has been appointed sole agent and attorney for said party of the second part in the handling and selling of other lands.

Now therefore, in consideration of the above and other good and valuable considerations, the receipt whereof is hereby acknowledged, the parties hereto do covenant and agree as follows towit:

1. The said party of the first part agrees to pay out of the moneys received from the sale of the Santa Catarina rancho, or out of the moneys received from the sales of parts or portions thereof, the sum of five thousand dollars (\$5000.) to the party of the second part.
2. The party of the second part shall be entitled to this sum as fast as same shall become available from the sales of land from said rancho, costs and expenses of sale only being first deducted, 75% of the remaining moneys (up to \$5000.only) being then paid over to said second party, the other(first) party, retaining the said balance of 25% said payments to continue only until the sum of \$5000 shall have been all paid to said second party.
3. It is understood and agreed between the parties hereto, that no money shall be paid to said second party except from the sales of land in said rancho, as above specified; and it is further understood that the sum of \$5000 shall be the total amount payable to said second party under this contract, said amount to settle all obligations.
4. It is further understood and agreed that the party of the first part shall have a prior personal right of purchase of any other lands now owned by said second party, the latter having executed a full power of attorney giving said second party's properties into the control of said first party for the purpose of selling the same.
5. The party of the second part hereby agrees to freely and promptly re-execute anew any and all documents or conveyances, which by reason of faulty descriptions, the laws of this country or Mexico shall require, or which for other good reasons shall, or may become necessary to properly transfer title to properties belonging to said second party or which he may have already transferred to said first party or his assigns.
6. It is understood that this contract is a personal obligation upon the part of the party of the second part, who shall not assign the rights hereunder without the consent of the party of the first part, or his assigns.

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GENERAL NOTES.

Father Ubach once attempted to have recorded a few minor deeds of grants of Milatovich (North Co., Ubach Arch. vs Joe Soboc Alameda) and the authorities would not accept them. (Inference is, Dias had official posted.)

Dias evidently thought that Milatovich should never have ever approached Maximilian.

There was never any collusion of the Milatovich holdings, as happened to others, who befriended Maximilian.

Facio's report to Dias on title of Lower California possession etc. - see office at Washington. Copied. Printed San Francisco. Yellow pamphlet. Dias later was offended at Facio.

Alex R. Forbes, teacher of languages, author on early Spanish records - aided Milatovich on expeditions. (Living now.)

Milatovich had right to a judicial hearing. Failure of local officials to forward papers should not prejudice him.

THIS AGREEMENT made and entered into this 7th day of June A.D. 1912, between George L. Stewart, of the City of Berkeley, County of Alameda, State of California, the party of the first part, and Joseph Milatovich, of the City and County of San Francisco, State of California, party of the second part, WITNESSETH:

That whereas, the party of the second part has heretofore conveyed to the party of the first part certain lands in Mexico, to-wit, the Santa Catalina Rancho, and

Whereas, the party of the first part has been appointed sole agent and attorney for said party of the second part in the handling and selling of other lands.

Now therefore, in consideration of the above and other good and valuable considerations, the receipt whereof is hereby acknowledged, the parties hereto do covenant and agree as follows to-wit:

1. The said party of the first part agrees to pay out of the moneys received from the sale of the Santa Catalina Rancho, or out of the moneys received from the sales of parts or portions thereof, the sum of five thousand dollars (\$5000.) to the party of the second part.

2. The party of the second part shall be entitled to this sum as fast as same shall become available from the sales of land from said rancho, costs and expenses of sale only being first deducted, 75% of the remaining moneys (up to \$5000. only) being then paid over to said second party, the other (first) party, retaining the said balance of 25% said payments to continue until the sum of \$5000 shall have been all paid to said second party.

3. It is understood and agreed between the parties hereto, that no money shall be paid to said second party except from the sales of land in said rancho, as above specified; and it is further understood that the sum of \$5000 shall be the total amount payable to said second party under this contract, said amount to settle all obligations.

4. It is further understood and agreed that the party of the first part shall have a prior personal right of purchase of any other lands now owned by said second party, the latter having executed a full power of attorney giving said second party's properties into the control of said first party for the purpose of selling the same.

5. The party of the second part hereby agrees to freely and promptly re-execute anew any and all documents or conveyances, which by reason of faulty descriptions, the laws of this country or Mexico shall require, or which for other good reasons shall, or may become necessary to properly transfer title to properties belonging to said second party or which he may have already transferred to said first party or his assigns.

6. It is understood that this contract is a personal obligation upon the part of the party of the second part, who shall not assign the rights hereunder without the consent of the party of the first part, or his assigns.

7. A breach of any of the covenants or obligations which are herein specified, shall constitute a breach of this contract, and failure or refusal upon the part of the party of the second to perform any of the covenants herein required by him to be performed, shall release the party of the first part from all obligations to pay any further money or render any further services under this contract, and same shall then become void and of no effect at option of said first party.

8. The party of the second part shall not do any act or thing which might jeopardize the interests of the party of the first part in this contract, or render useless his efforts in the sales of any lands belonging to the said second party.

WITNESS the hands and seals of the parties hereto.

WITNESSES:

George L. Stewart  
Jos. Milatovich

W.L. Calwell

(Copied from original contract.)

Notary Public.

7. A breach of any of the covenants or obligations which are herein specified, shall constitute a breach of this contract, and failure to perform any of the covenants herein required by him to be performed shall release the party of the first part from all obligations to pay any further money or render any further services under this contract, and same shall then become void and of no effect at option of said first party.

8. The party of the second part shall not do any act or thing which might jeopardize the interests of the party of the first part in this contract, or render useless his efforts in the sales of any lands belonging to the said second party.

WITNESS the hands and seals of the parties hereto.

George I. Stewart  
Jos. Milatovich

WITNESSES:

W.L. Calverly

(Copied from original contract)

STATE OF CALIFORNIA, )  
City and County of ) ss.  
San Francisco. )

I, Lewis B. Harris, Notary Public

in and for the City and County aforesaid, do hereby certify that I have carefully compared the original on the foregoing pages 97 and 98 with the original two pages of manuscript this day exhibited to me by A. Milatovich and that the same is a full and true transcript document and that the signature of M. Barragan is the same signature which I have frequently seen attached to official documents signed by him and to which the official seal of the Sub-Political Chief of Lower California was attached.

In Witness Whereof, I have hereunto set my hand and seal in the City and County of San Francisco this 4th day of March, 1887.

Lewis B. Harris,

Notary Public.

AGREEMENT.

THIS AGREEMENT Made this 13th day of June, 1914, between Wm.E.White and George L. Stewart, both of the City and County of San Francisco, State of California, the parties of the first part and Charles E.Malmquist, of the same place, the party of the second part, WITNESSETH:

That whereas, the said parties of the first part, and each of them, are now engaged in quieting title to certain properties in Lower California, Republic of Mexico, in which said properties said parties of the first part have an interest, by purchase and otherwise, acquired during the lifetime of Joseph Milatovich, and which the latter acquired by succession from his father, Antonio Milatovich; and

Whereas, said parties of the first part and each of them are desirous of obtaining financial aid in order that they may further carry on and prosecute the preliminary work and investigation requisite and necessary to quiet the title to settle and adjust any adverse and conflicting claims in respect of, and that may be determined as standing against the said above properties, and otherwise render salable and establish a merchantable title to said above properties;

And whereas, the party of the second part is willing to extend the preliminary financial aid that may be reasonably required to effectuate and carry out the above purposes, and is willing to cooperate with the said first parties along the lines hereinbefore set forth, in the institution of such proceedings as may in the discretion of said first parties be reasonable and necessary in the premises.

NOW THEREFORE, in consideration of the above and the advancement and payment to said parties of the first part by said party of the second part of the sum of two hundred and fifty dollars (\$250.), upon the signing of this agreement, the receipt whereof is hereby acknowledged by the said first parties and the further advancement and payment of such sums from time to time, as may during the course of said work, investigation and proceedings become in the discretion of the parties of the first part reasonably necessary and requisite to properly complete the said preliminary labors, not exceeding in all the sum of seven hundred and fifty (\$750.) dollars, the parties of the first part do hereby agree to execute and deliver to said party of the second part, such evidence of interest, or form of conveyance, as shall under the circumstances then existing, evidence and set forth a one-fifth (1/5) interest, undivided in that certain specific parcel of land, lying and being in the territory of Lower California, Republic of Mexico, known and designated as the "Rancho de Santa Catarina", being one of the "properties" herein first above mentioned, and containing approximately 180,000 acres more or less; which said conveyance or evidence of interest shall be executed upon the happening of any event, following the accomplishment of the purposes above set forth, that shall make the title to the said rancho de Santa Catarina marketable or salable by the parties of the first part upon a fair and reasonable basis considering the price of surrounding lands and the work expended in exploiting the property.

STATE OF CALIFORNIA  
County of San Francisco  
Notary Public

I, Lewis B. Harris, Notary Public  
in and for the City and County of San Francisco, do hereby certify that I have carefully compared the original on the foregoing pages 97 and 98 with the original two pages of manuscript this day exhibited to me by A. Milatovich and that the same is a full and true transcript document and that the signature of M. Barragan is the same signature which I have frequently seen attached to official documents signed by him and to which the official seal of the Sub-Political Chief of Lower California was attached.  
In Witness Whereof, I have hereunto set my hand and seal in the City and County of San Francisco this 14th day of March, 1914.

Lewis B. Harris,  
Notary Public.

THIS AGREEMENT made this 15th day of June, 1911, between Wm. E. White and George L. Stewart, both of the City and County of San Francisco, State of California, the parties of the first part and Charles E. Malmquist, of the same place, the party of the second part, WITNESSETH:

That whereas, the said parties of the first part, and each of them, are now engaged in putting title to certain properties in Lower California, Republic of Mexico, in which said properties said parties of the first part have an interest, by purchase and otherwise, acquired during the lifetime of Joseph Milatovich, and which the latter acquired by succession from his father, Antonio Milatovich;

Whereas, said parties of the first part and each of them are desirous of obtaining financial aid in order that they may further carry on and prosecute the preliminary work and investigation requisite and necessary to what the title to settle and adjust any adverse and conflicting claims in respect of, and that may be determined as standing against the said above properties, and otherwise render said title and establish a merchantable title to said above properties;

And whereas, the party of the second part is willing to extend the preliminary financial aid that may be reasonably required to effectuate and carry out the above purposes, and is willing to cooperate with the said first parties along the lines hereinafter set forth, in the institution of such proceedings as may in the discretion of said first parties be reasonable and necessary in the premises.

NOW THEREFORE, in consideration of the above and the advancement and payment to said parties of the first part by said party of the second part of the sum of two hundred and fifty dollars (\$250.), upon the signing of this agreement, the receipt whereof is hereby acknowledged by the said first parties and the further advancement and payment of such sums from time to time, as may during the course of said work, investigation and proceedings become in the discretion of the parties of the first part reasonably necessary and requisite to properly complete the said preliminary labors, not exceeding in all the sum of seven hundred and fifty (\$750.) dollars, the parties of the first part do hereby agree to execute and deliver to said party of the second part, such evidence of interest, or form of conveyance, as shall under the circumstances then existing, evidence and set forth a one-fifth (1/5) interest undivided in that certain specific parcel of land, lying and being in the territory of Lower California, Republic of Mexico, known and designated as the "Rancho de Santa Catarina", being one of the "properties" herein first above mentioned, and containing approximately 180,000 acres more or less; which said conveyance or evidence of interest shall be executed upon the happening of any event, following the accomplishment of the purposes above set forth, that shall make the title to the said Rancho de Santa Catarina merchantable or saleable by the parties of the first part upon a fair and reasonable basis considering the price of surrounding lands and the work expended in exploiting the property.

It is expressly understood between the parties hereto that said second party shall defer to said first parties upon the question of fairness of price and advisability of sale, said second party hereby expressing his willingness to be guided by the experience of said first parties in the premises and hereby consenting to such steps as may be found necessary for the mutual protection and advancement of the interest of all the parties herein, for the better accomplishment of which said second party hereby agrees to join in any escrow, option, contract, conveyance or other document which may in the course of events become and appear in the discretion of said parties of the first part, necessary and proper.

The party of the second part hereby expressly waives all rights to a refund or return of the moneys or funds hazarded by said second party herein, the consideration for the venture being the possibility of marketing the title to that certain parcel or tract of land hereinbefore referred to as the "rancho de Santa Catarina," being the specific and only portion of the properties under this agreement, wherein the said second party shall assert or have any interest.

It is understood that when moneys are necessary to be paid by second party to first parties, under this agreement, such reasonable notice shall be given said second party, and such explanation rendered as to the advisability of such expenditures, or advances, as the nature of the case will permit, and the time for performance or action will warrant.

No assignment of the rights of the second party herein, and no assignment of the liabilities hereunder, shall be made except with the written consent of the parties of the first part.

Executed in triplicate.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Wm. E. White  
Geo. L. Stewart  
Charles E. Malmquist

WITNESS:  
John R. Farrell  
S. P. Schmidt

CHRONOLOGICAL

DIARY OF EVENTS -- JOSEPH MILATOVICH CASE  
George L. Stewart.

1912

- April 19, Calwell mentions Milatovich
- 22, Calwell makes appointment (not kept)
- May 9, Calwell again mentions Milatovich
- 20, Joseph Milatovich called first time with introduction
- 22, Joseph Milatovich called
- 23, Joseph Milatovich called
- 24, Copied last will of Antonio Milatovich from San Francisco records
- 25, Joseph Milatovich called with Calwell
- 27, Joseph Milatovich called
- 29, Joseph Milatovich called
- 31, Joseph Milatovich called
- June 1, Joseph Milatovich called
- 3, Joseph Milatovich called
- 4, Joseph Milatovich called
- 6, Colbert & Timmons signed agreement
- Joseph Milatovich called
- 7, Joseph Milatovich signed Power of Attorney
- Witnessed by Calwell
- 7, Identified at Crocker Safe Deposit Vaults by Joseph Milatovich
- 10, Joseph Milatovich called
- 11, Joseph Milatovich signed deed to Santa Catarina Rancho. Calwell witnessed. Geo.L. Stewart signed agreement to furnish temporary support.
- 14, Timmons & Colbert pull out
- 19, Timmons & E.C.Tilsley called
- 25, Joseph Milatovich called
- 27, Joseph Milatovich called
- July 1, Donald McNeal Shorb called. Wants to take up.
- 3, Joseph Milatovich called
- 4, Joseph Milatovich ill. Went to Federal Hotel
- 5, Joseph Milatovich ill. Went to Federal Hotel
- 6, McKenzie interested in case
- 8, Called at Federal Hotel to see Joseph Milatovich
- 9, Called at Federal Hotel to see Joseph Milatovich. Not any better. Bigelow.
- 10, Called at Federal Hotel to see Joseph Milatovich. Met Calwell an officer. Orr learned of death of Joseph Milatovich. Removed under name of Allen to Morgue, with Calwell. Identified body as Joseph Milatovich.
- 11, M.P. Waite called from Los Angeles
- 22, Adolpho Givanovich called. Stated that he is related. Also that he had attended to burial.
- 22, Calvin Esterly called
- 24, Adolpho Givanovich called

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It is expressly understood between the parties hereto that said second party shall defer to said first party upon the question of fairness of price and advisability of sale, said second party hereby expressing his willingness to be guided by the experience of said first party in the premises and hereby consenting to such steps as may be found necessary for the mutual protection and advancement of the interest of all the parties herein, for the better accomplishment of which said second party hereby agrees to join in any escrow, option, contract, conveyance or other document which may in the course of events become and appear in the discretion of said parties of the first part, necessarily and proper.

The party of the second part hereby expressly waives all rights to a refund or return of the money or funds advanced by said second party herein, the consideration for the venture being the possibility of marketing the title to that certain parcel or tract of land hereinbefore referred to as the "Rancho de Santa Catarina", being the specific and only portion of the properties under this agreement, wherein the said second party shall assert or have any interest.

It is understood that when money is necessary to be paid by second party to first parties, under this agreement, such reasonable notice shall be given said second party, and such explanation rendered as to the advisability of such expenditures, or advances, as the nature of the case will permit, and the time for performance or action will warrant.

No assignment of the rights of the second party here-in, and no assignment of the liabilities hereunder, shall be made except with the written consent of the parties of the first part.

Executed in triplicate.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

WITNESSES:  
 John R. Farrell  
 S.P. Schmidt  
 Wm. E. White  
 Geo. L. Stewart  
 Charles E. Mahan

DIARY OF EVENTS -- JOURNAL OF JOSEPH MITCHELL CASE  
George J. Stewart

April 19, Calwell mentions Mitchell  
22, Calwell makes appointment (not kept)  
May 9, Calwell again mentions Mitchell  
20, Joseph Mitchell called first time with introduction  
22, Joseph Mitchell called  
23, Joseph Mitchell called  
24, Copied last will of Antonio Mitchell from San Francisco records  
25, Joseph Mitchell called with Calwell  
27, Joseph Mitchell called  
29, Joseph Mitchell called  
31, Joseph Mitchell called  
June 1, Joseph Mitchell called  
2, Joseph Mitchell called  
3, Joseph Mitchell called  
4, Joseph Mitchell called  
6, Robert & Timmons signed agreement  
7, Joseph Mitchell called  
7, Joseph Mitchell signed Power of Attorney Witnessed by Calwell  
7, Identified at Crocker Safe Deposit Vault by Joseph Mitchell  
10, Joseph Mitchell called  
11, Joseph Mitchell signed deed to Santa Catarina Ranch, Calwell witnessed. Geo. J. Stewart signed agreement to furnish temporary support.  
14, Timmons & Gilbert pull out  
19, Timmons & E.C. Tinsley called  
22, Joseph Mitchell called  
27, Joseph Mitchell called  
July 1, Donald McNeal Sharp called. Wants to take up  
3, Joseph Mitchell called  
4, Joseph Mitchell called. Went to Federal Hotel  
5, Joseph Mitchell called. Went to Federal Hotel  
6, McKenna interested in case  
8, Called at Federal Hotel to see Joseph Mitchell  
9, Called at Federal Hotel to see Joseph Mitchell. History better. Bigelow.  
10, Called at Federal Hotel to see Joseph Mitchell. Met Calwell an officer.  
Our learned of death of Joseph Mitchell.  
Removed under name of Mitchell.  
Allen to Morgan, with Calwell. Iden-  
tified body as Joseph Mitchell.  
11, M.P. White called from Los Angeles  
22, Adolpho Givanovich called. Stated that he is related. Also that he had et-  
ended to burial.  
22, Calvin Estery called  
24, Adolpho Givanovich called

-2-  
August 2, Calwell acknowledged deed  
33, Petition for letters of administration filed Aug. 21.  
12, Public Administrator's office called up  
21, Put case over till Sept 5th McKenzie & Ephraim  
24, Consulted attorney Tyrrell. Filed deed to Santa Catarina, San Francisco  
Sept. 5, A. Givanovich and Attorney contest application Petition with letters withdrawn. Contestant duly appointed by Judge Coffey. Bond \$100.  
Talked with White and Givanovich  
21, Epriam goes to Mexico

1914

May 28, Tendered \$40.00 in payment for rent of box at Crocker Safe Deposit Vaults to Cunningham officer in charge and took receipt subject to approval of Morrison, Dunne and Brobeck, attorneys for Crocker Vaults. Attorneys ask that Administrator and County Treasurer be present when box is opened.  
May 28, Charles E. Malmquist signed agreement to furnish funds to carry on fight. Paid \$45.00, and first payment thereon.



August 2, Calwell acknowledged deed  
 Petition for letters of administration  
 Filed Aug. 21.  
 12, Public Administrator's office called up  
 11, But case over till Sept 11th McKenna & Eppstein  
 10, Consulted attorney Tyrrell. Filed deed  
 to Santa Catarina, San Francisco  
 9, A. Givonovich and attorney contact application  
 Petition with letters withdrawn. Contacted  
 duly appointed by Judge Coffey. Bond \$100.  
 Talked with White and Givonovich  
 8, Eppstein goes to Mexico

MAY

May 28, Tenders \$40.00 in payment for rent of box  
 at Crocker Safe Deposit Vault to Cunningham  
 officer in charge and took receipt  
 subject to approval of Morrison,  
 Dunn and Brobeck, attorneys for  
 Crocker Vails. Attorneys ask that  
 Administrator and County Treasurer  
 be present when box is opened.

May 28, Charles E. Maloney signed agreement to  
 furnish funds to carry on litigation.  
 Paid \$40.00, and first payment  
 thereon.

A brief description of the estate known in Mexico as THE EX-MISSION OF SANTA CATARINA, OR, SAINT CATHERINE, situated in the peninsula of Lower California, from a personal inspection by the owners.

This estate is located in the Northern Division of the territory aforesaid, and is distant about 68 miles South of San Diego. The estate contains 11,500,000 acres, more or less, and in form resembles a parallelogram, the western side being everywhere distant from five to ten miles from the Pacific Ocean, and the eastern side between 30 and 40 miles from the Gulf of California. The property was previous to the Mexican Revolution, used for religious purposes; but after the Republic was inaugurated, the lands were secularized and became the property of the Nation.

After peace was restored there, this property was granted in 1855 to Don Ricardo Palacio, for military services rendered Mexico, in aforesaid Revolution, as the Nation was financially embarrassed the government gave lands to their public servants of whom the aforesaid Palacio was one. The aforesaid Palacio transferred the property to Juan Julio Morner who sold to Robert McKay, after which McKay sold to Wm. McCrindle.

The grant was issued on the 20th of December, 1855, subject to three conditions, as follows:

- 1st. The land was to be surveyed and possession taken inside of three years and monuments in stone and mortar erected at each of the four corners of the property.
- 2nd. Six houses were to be erected thereon.
- 3rd. The land was not to be sold to aliens during the said three years. All expenses to be borne by said Palacio or his Attorney-in-Fact.

Early in 1859, all said conditions having been executed, the title was officially confirmed. These facts can all be substantiated by documentary evidence.

The owners will entertain a proposition for the sale of the entire property. It can all be utilized for stock raising, farming and mining. The rain fall is much the same as at San Diego, but there seemed to be an abundance of water generally, and where scarce or the surface, can be had in the low valleys by sinking from 2 to 3 feet. We experienced no difficulty in getting all the water we required for ourselves and team.

The climate is almost perfection, the temperature averaging 77 degrees in Summer and 56 degrees in Winter.

The soil is of a varied nature, well adapted to grow all fruits, vegetables and grains, to even a greater extent than can be grown in Southern California.

The land is located East of Ensenada. The Western monument being not quite 3 miles from the Custom House in that town.

The fare from hereby sea to Ensenada is \$15.00, or \$25.00 round trip; but colonists can have special rates considerably less.

In Ensenada there are 3 banks, a flour and woollen

(This connects with page 63)

A brief description of the estate known as the Mission of Santa Catalina, or Santa Catalina, situated in the peninsula of Lower California, from a personal inspection by the owners.

This estate is located in the Northern Division of the territory of California, and is distant about 68 miles South of San Diego. The estate contains 11,000,000 acres, more or less, and in form resembles a parallel-gram, the western side being everywhere distant from five to ten miles from the Pacific Ocean, and the eastern side between 30 and 40 miles from the Gulf of California. The property was previous to the Mexican Revolution, used for religious purposes; but after the Republic was inaugurated, the lands were secularized and became the property of the Nation.

After peace was restored there, this property was granted in 1855 to Don Ricardo Palacios, for military services rendered Mexico, in the said Revolution, as the Nation was financially embarrassed the government gave lands to their public servants of whom the above said Palacios was one. The above said Palacios transferred the property to Juan Julio Morner who sold to Robert McKay, after which McKay sold to Mr. McGraw.

The grant was issued on the 20th of December, 1855, subject to three conditions, as follows:

1st. The land was to be surveyed and possession taken inside of three years and monuments in stone and mortar erected at each of the four corners of the property.

2nd. Six houses were to be erected thereon.

3rd. The land was not to be sold to aliens during the said three years. All expenses to be borne by said Palacios or his Attorney-in-Fact.

Early in 1859, all said conditions having been executed, the title was officially confirmed. These facts can all be substantiated by documentary evidence.

The owners will entertain a proposition for the sale of the entire property. It can all be utilized for stock raising, farming and mining. The rain falls as much the same as at San Diego, but there seemed to be an abundance of water generally, and where scarce or the surface, can be had in the low valleys by sinking from 2 to 3 feet. We experienced no difficulty in getting all the water we required for ourselves and team.

The climate is almost perfect, the temperature averaging 77 degrees in Summer and 56 degrees in Winter.

The soil is of a varied nature, well adapted to grow all fruits, vegetables and grains, to even a greater extent than can be grown in Southern California.

The land is located East of Ensenada. The Western monument being not quite 3 miles from the Custom House in that town.

The fare from hereby see to Ensenada is \$15.00, or \$25.00 round trip; but colonists can have special rates considerably less.

In Ensenada there are 3 banks, a flour and woolen

No.5. Volume 1, pages 46 to 52. Floating Grants 11 leagues.

June 17, 1858 Governor Castro to Jose Antonio Chavez, 11 leagues  
October 12, 1859 Chavez to Juan Julio Morner 2 leagues  
October 13, 1859 Morner to Milatovich, 2 leagues  
October 7, 1859 Chavez to Milatovich 2 leagues

(Milatovich therefore owns four leagues of above)  
This grant was confirmed by the Supreme Government August 8, 1859.

No.6. Volume 1, pages 154 to 157 LaJunta Grant 8 leagues (Milatovich owns four leagues.)

June 17, 1858 Governor Castro to Juan Mendoza and C. Zerega 8 leagues  
Aug. 7, 1860 J Mendoza to Manuel Castro 4 leagues \$100.

This grant confirmed by the Supreme Government August 8, 1859.

Conditions:

- 1. Pablaran el terreno y edificaran casa y corral.
- 2n. Tomaran la posesion juridica en virtud de este despacho
- 3rd. Daran cuenta al Supremo Gobierno con esta concecion para que determine lo que tubiere a bien.
- 4th. No podran cender enagenar in traspasar su derecho a ningun extranjero no naturalizado en la Republica.

No.7. Volume 1, page 94. Grant of 11 leagues en los gerrenos valdios a las caidas del Rio Colorado  
June 23, 1858 Governor Castro to Eugenio Montenegro 11 leagues.

Eugenio Montenegro to take possession March 1, 1860 11 leagues for \$1000.00  
Power of Attorney to take possession from Montenegro to Milatovich, dated June 27th, 1861.

This grant confirmed by the Supreme Government August 8, 1859.

No.8. Volume 1 Pages 105 to 116, San Fernando 11 leagues

August 13, 1858 Governor Castro to Don Juan Julio Morner, 11 leagues  
Petition to locate on San Fernando, dated Jany 28, 1859  
Decree dated January 29, 1859.  
May 17, 1859 order of Governor Castro to Judge of Mission Vieja

July 1, 1859 Certificate of existence of order  
May 10, 1859 Petition for extension of time  
May 19, 1859 Decree extending time one year  
March 16, 1859 Morner to Milatovich 1 1/2 leagues  
Consideration: "Mil seis concuentos pesos \$1650  
Morner to Milatovich Sept. 23, 1859 2 1/2 leagues 500  
Grant confirmed Aug. 8, 1859 by Supreme Government

No. 9. Volume 1, pages 117 to 149 Ojo de Liebre Grant  
 22 leagues and salines  
 Nov. 20, 1858 Governor Castro to Manuel Diaz  
 y Garcia and Jose.

THE TITLE IS AS FOLLOWS:

May 12, 1858. Petition of Antonio  
 Milatovich representing himself to be a native of Dalamatia  
 Austria, a resident of San Francisco and praying for 11  
 leagues for farming and stock raising: also reciting viz:  
 "Que Deseando Trasladar me y establecer me en el Terri-  
 torio de la Republica Mexicana en la Peninsula de la Baja  
 California."

June 9, 1858 Decree of Governor  
 Castro granting petition.  
 June 9, 1858 Grant to Milatovich  
 of 11 leagues reciting nativity and residence, Dalmatia  
 Austria and San Francisco, California; also reciting, "  
 para cambiar en residencia el territorio de la Repub-  
 lica."

Grant registered January 25, 1859  
 March 2, 1860, receipt for \$1100  
 reciting the payment is made  
 "Segun orden del Supremo Gobierno  
 August 8, 1852.

May 19, 1859 Petition for time to  
 locate be extended.  
 May 19, 1859 Decree granting exten-  
 sion of time for one year.

Conditions:  
 El Agraciado hasa el deslinde y mensura de los  
 terrenos por su propia cuenta de el terminos de un ano  
 contado desde este fecha."  
 2nd. Problara el terreno segun las leyes y  
 disposiciones del Supremo Gobierno.

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CHANGE OF TITLE IN NORTHERN DISTRICT LOWER CALIFORNIA  
 Mexico to Louis Huller 1884.

Louis Huller to International Co of Mexico (\$20,000,000 cor-  
 poration. 15,000,000 acres transferred June 2, 1886  
 Private holdings excepted - The Tecate Colony (granted  
 under Colonization Acts 1861 and 1874) was among these  
 exceptions.

International Company - to Mexican Land & Colonization Co. 1891  
 An English syndicate. A Subsidiary corporation is the  
 Lower California, Development Co. Latter controls the Ensenada  
 Coast locality.

Jefe Politico of Lower California in 1868-9 was Don Pablo  
 Maria Castro. Courts of First Instance at La Paz, Mulege  
 and Ensenada. In 1885 a Mexican Commissioner was appointed  
 by Mexico yo "revalidate" all lands not properly held in  
 compliance with Mexican law.

No. 8. Volume 1, pages 109 to 116, San Fernando 11 leagues  
 August 15, 1858 Governor Castro to Don Juan Julio  
 Morner, 11 leagues  
 Petition to locate on San Fernando, dated July 28, 1859  
 Decree dated January 29, 1859.  
 May 17, 1859 order of Governor Castro to Judge of  
 Mission Vieja  
 July 1, 1859 Certificate of existence of order  
 May 10, 1859 Petition for extension of time  
 May 19, 1859 Decree extending time one year  
 March 16, 1859 Morner to Milatovich 1/2 leagues  
 Consideration: "Mil sets conditions paces \$1650  
 Morner to Milatovich Sept. 23, 1859 2 1/2 leagues  
 Grant confirmed Aug. 8, 1859 by Supreme Government

No. 7. Volume 1, page 94. Grant of 11 leagues on los  
terrenos vendidos a las cabanas del Rio Colorado  
 June 25, 1858 Governor Castro to Eugenio Montenegro  
 11 leagues  
 Eugenio Montenegro to take possession March 1, 1860  
 11 leagues for \$1000.00  
 Power of Attorney to take possession from Montenegro  
 to Milatovich, dated June 27th, 1861.  
 This grant confirmed by the Supreme Government  
 August 8, 1859.

Conditions:  
 Pablara el terreno y edificar casa y  
 corral.  
 En Tomaran la posesion juridica en  
 virtud de este despacho  
 3rd. Daran cuenta al Supremo Gobierno  
 con esta concesion para que determine  
 lo que tubiere a bien.  
 4th. No podran vender enagenar ni tras-  
 pasar su derecho a ningun extranjero  
 no naturalizado en la Republica.

No. 6. Volume 1, pages 134 to 137 Laguna Grant 8 leagues  
 (Milatovich owns four leagues.)  
 June 17, 1858 Governor Castro to Juan Mendosa and  
 C. Xeraga 8 leagues  
 Aug. 7, 1860 Mendosa to Manuel Castro 4 leagues  
 \$100.  
 This grant confirmed by the Supreme Government  
 August 8, 1859.

No. 5. Volume 1, pages 46 to 52. Washing Grant 11 leagues  
 June 17, 1858 Governor Castro to Jose Antonio  
 Chavez, 11 leagues  
 October 12, 1859 Chavez to Juan Julio Morner 2 leagues  
 October 17, 1859 Morner to Milatovich 2 leagues  
 October 17, 1859 Chavez to Milatovich 2 leagues  
 (Milatovich therefore owns four leagues of above)  
 This grant was confirmed by the Supreme Government  
 August 8, 1859.

No. 9. Volume 1, pages 117 to 119. Ojo de Liebre Grant  
25 leagues and salinas  
Nov. 20, 1858 Governor Castro to Manuel Diaz  
y Garcia and Jose.

THE TITLE IS AS FOLLOWS:

May 12, 1858. Petition of Antonio  
Mistovich representing himself to be a native of Palmaria  
Austria, a resident of San Francisco and praying for 11  
leagues for farming and stock raising: also reciting via:  
"que Deseando trasladar me y establecer me en el Territo-  
rio de la Republica Mexicana en la Península de la Baja  
California."

June 9, 1858 Decree of Governor  
Castro granting petition.  
June 9, 1858 Grant to Mistovich  
of 11 leagues reciting nativity and residence, Palmaria  
Austria and San Francisco, California; also reciting:  
"para cumplir en residencia el territorio de la Repub-  
lica."

Grant registered January 25, 1859  
March 2, 1860, receipt for \$1100  
reciting the payment is made  
"Segun orden del Supremo Gobierno  
August 8, 1852.

May 19, 1859 Petition for time to  
locate be extended.  
May 19, 1859 Decree granting exten-  
sion of time for one year.

Conditions:  
El Agraciado hace el destino y menura de los  
terrenos por su propia cuenta de el termino de un ano  
contado desde este fecha."

2nd. Probara el terreno segun las leyes y  
disposiciones del Supremo Gobierno.

CHANGE OF TITLE IN NORTHERN DISTRICT LOWER CALIFORNIA

Mexico to Louis Miller 1884.

Louis Miller to International Co of Mexico (\$20,000,000 con-  
cession. 15,000,000 acres transferred June 2, 1886  
Private holdings excepted - The Teaste Colony (granted  
under Colonization Acte 1861 and 1874) was among these  
exceptions.

International Company - to Mexican Land & Colonization Co. 1891  
An English syndicate. A subsidiary corporation is the  
Lower California Development Co. Latter controls the Mesquite  
Coast locality.

The Politics of Lower California in 1868-9 was Don Pablo  
Maris Castro. Courts of First Instance at La Paz, Mingo  
and Mesquite. In 1885 a Mexican Commissioner was appointed  
by Mexico to "revalidate" all lands not properly held in  
compliance with Mexican Law.

mill, also a cannery, tannery, soap and candle factory,  
and good stores and hotels, with a population of over  
1500. The harbor is 30 feet deep at the wharf and con-  
tains a vast variety of fine fish.

Markets for various products are open in Mexico,  
at higher prices than are current here.

MEXICO, previous to 1897, never taxed uncultivated  
land. The minimum tax on our 1,000,000 acres is about  
\$700.00 a year, United States Gold Coin.

Colonists can by previous arrangement with the  
government get almost everything except luxuries in the  
Republic, free from duty, especially breeding animals.  
By luxuries, is meant such things as organs, buggies,  
sewing machines, pianos and such like.

Americans in recent years are doing extensive  
business in the Sister Republic, and every year wit-  
nesses a greater migration thereto than the previous  
year. From reliable authority at the present moment,  
there are not less than \$500,000,000 worth of American  
capital invested in Mexico. More than 1,000,000 men are  
employed in mines there. On the EX-MISSION OF SANTA  
CATARINA, some mining is in progress, and, by the way  
it may be stated here that the title to the property  
especially states that the owners have the mountains  
and all that they contain, which ought to be a consid-  
erable inducement to would-be purchasers thereof.

Perfect civil and religious liberty is practiced  
in Mexico, and at the present time very few idle men  
can be found. The Mexicans do not interfere with aliens,  
who have all the rights and privileges of the country.

As we have seen, these lands may be divided into  
grazing, farming and mining, which might perhaps be  
further sub-divided, particularly the farming lands,  
in whatever way might suit the tastes and wishes of the  
immediate parties concerned.

During our tour of inspection, on several occasions  
we met some indians, whom we found civil and obliging.  
They appear to roam at large and do not seem to have a  
fixed place of abode. They spoke the Spanish language  
and we made ourselves intelligible to them in that  
language.

From the latitude and almost insular position of  
the property on the peninsula, the climate is very  
salubrious and healthy, so much so that catarrh, asthma,  
and rheumatism are almost unknown. A country such as  
this which offers superior advantages for health and  
comfort demands our attention.

The lands have been twice surveyed since the present  
grant was issued. First, as we have seen, as one of the  
conditions of the stipulated arrangement made with  
Palacio. Said survey was made by Cecillia Zerega,  
who was the then Government Surveyor. And, again,  
there was a second survey made by Wm. Denton at the  
instigation and expense of Mr. McCrindle. Mr. Denton

also a cannery, tannery, soap and candle factory, and good stores and hotels, with a population of over 1500. The harbor is 30 feet deep at the wharf and contains a vast variety of fine fish.

Markets for various products are open in Mexico, at higher prices than are current here.

MEXICO, previous to 1897, never taxed uncultivated land. The minimum tax on our 1,000,000 acres is about \$700.00 a year, United States Gold Coin.

Colonists can by previous arrangement with the Government get almost everything except luxuries in the Republic, free from duty, especially breeding animals. By luxuries, is meant such things as organs, pianos, sewing machines, pianos and such like.

Americans in recent years are doing extensive business in the State Republic, and every year witness a greater migration thereto than the previous year. From reliable authority at the present moment, there are not less than \$500,000,000 worth of American capital invested in Mexico. More than 1,000,000 men are employed in mines there. On the MEX-MISSION OF SANCTI CATARINA, some mining is in progress, and, by the way, it may be stated here that the title to the property especially states that the owners have the mountains and all that they contain, which ought to be a considerable inducement to would-be purchasers thereof.

Perfect civil and religious liberty is practiced in Mexico, and at the present time very few like men can be found. The Mexicans do not interfere with aliens who have all the rights and privileges of the country.

As we have seen, these lands may be divided into grazing, farming and mining, which might perhaps be further sub-divided, particularly the farming lands, in whatever way might suit the tastes and wishes of the immediate parties concerned.

During our tour of inspection, on several occasions we met some Indians, whom we found civil and obliging. They appear to roam at large and do not seem to have a fixed place of abode. They speak the Spanish language and we made ourselves intelligible to them in that language.

From the latitude and almost insular position of the property on the peninsula, the climate is very salubrious and healthy, so much so that catarrhs, asthma, and rheumatism are almost unknown. A country such as this which offers superior advantages for health and comfort demands our attention.

The lands have been twice surveyed since the present grant was issued. First, as we have seen, as one of the conditions of the stipulated arrangement made with Palacio. Said survey was made by Cecilia Berge, who was the then Government Surveyor. And again, there was a second survey made by Wm. Denton at the investigation and expense of Mr. McCrindle. Mr. Denton

who now resides at San Diego, surveyed the land into square leagues and fractions thereof, but did not at all change the original boundaries or monuments aforesaid. We had the pleasure of a personal interview with Mr. Denton in San Diego and learned considerable from him about the peninsula generally and our own property particularly.

We are in possession of maps of both surveys, which are open for inspection. The first map gives the measurements in Mexican Hectares, and the second map in square leagues and fractions of the same, whereby we can reduce it to acres with which we are better acquainted.

We claim from personal observation, that the productiveness of these lands for all tropical and semi-tropical grains, vegetables, fruits, nuts, berries, etc., has been thoroughly and intelligently tested for many years under the personal supervision of the learned and hospitable Spanish Padres. The land now, however, after lying fallow for so many years and being practically without inhabitants and uncultivated, leaves the face of nature covered with wild flowers in which bees and wild honey considerably abound, especially in the timber districts and particularly in the northeast corner, where more than \$1,000,000 worth of timber grows on an average of 25 large and 15 small trees to the acre. The honey itself would make quite an industry and realize large financial returns. We remember the late Mr. McCrindle having been sent by his then representative there, one full ton of honey at one shipment.

Many of the beautiful flowers as seen by us in May and June seemed as if they had been trained by expert hands. These flowers can be seen in some places for miles in every direction.

Two and sometimes three crops can be annually raised there, the climate being so mild; therefore less capital would be required to make farming a success than in less favored places.

Prairie lands are varied, generally sandy of sundry colors, and covered with high brush-wood, which grows isolated in clumps so that we could walk around them freely. It is claimed that an ordinary laboring man can clear an acre of such land daily.

On the banks of the rivers and streams where wash-outs have occurred, the soil can be seen to an extraordinary depth; and the virgin earth on top is exceedingly rich.

The grazing land is simply excellent. In proof thereof, immense herds of stock overrun the land, all fat, sleek and full of life, and branded so that none can be very easily stolen. These ought to demonstrate that there must be an everlasting abundance of feed and water. Several of the herdsmen, recognizing our ownership wanted to rent lands from us, but Mr. McCrindle with his usual philanthropy told them to go right along and that some other time we would entertain their proposition.

who now resides at San Diego, surveyed the land into square leagues and fracciones, but did not at all change the original boundaries or monuments before. We had the pleasure of a personal interview with Mr. Denton in San Diego and learned considerable from him about the peninsula generally and our own property particularly.

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The lands are traversed in a northerly and southerly direction by two chains of rugged mountains abounding with minerals of various kinds. Between these two chains of mountains lies a beautiful valley, which must be seen to be admired, being some 10 to 15 miles wide, and which presents most beautiful scenery.

In the rainy season, snow falls several feet deep in these mountains, which, when afterwards melting at the proper season descends in water to the valley; thus adding to the rainfall and also adding to the extreme productivity of the soil.

In some places the mountains are covered with forests of pine trees which make fine timber. A gold bearing belt runs through the last range from 1 to 5 miles wide, containing quartz and places mining ground. Several gold mines have been partially developed at a village called Alamo, on league 181 of Denton's survey, about 50 miles South of Ensenada. Alamo is beautifully situated in a valley with high mountains north and west thereof - in fact the highest mountains on the property; while east and south thereof are valley lands. We rested here some hours, had refreshments and inspected some of the mines.

There are a few smaller mining camps on the property all of which are nearer Ensenada than Alamo.

The general topographical appearance of these lands as seen particularly from the Ex-Mission House (which is still standing), bears a striking resemblance to this part of California, and as the late Mr. McCrindle often said, to Contra Costa County, especially.

As we have seen, the climate is excellent as the currents between the two waters equalize the atmosphere, making the temperature cooler in Summer and warmer in Winter, than at similar latitudes elsewhere.

Besides potatoes, these lands have produced corn, rice, wheat, barley, oats, hemp, beets, sugar, tobacco, cotton, prunes, melons, squash, oranges, lemons, grapes, figs, bananas, apples, peaches, pears, plums, apricots, and in fact all tropical and semi-tropical fruits in as great an abundance and variety as anywhere else in the world, not excepting either Florida or Italy. Facts like these should convince anyone that the estate can sustain a very large population (including the miners) as well as vast numbers of stock.

As we have seen, bee culture can be made a staple industry. Mr. Smith, with whom we became acquainted at Ensenada, has practically demonstrated this. We also inspected his splendid nurseries including mulberry and cork trees, and greatly admired the vast numbers of his poultry.

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Since our last visit there, we have reliably ascertained that oil has been found there in abundance and from indications it is our opinion that coal is there too. We saw large quantities of lime stone, marble, and an inexhaustible supply of granite. In a word, our property is right in the mineral belt as anyone can see for himself on the map.

Fire-wood for immediate use can be obtained from the natural brushwood which we saw extensively used at Alamo. Adobe houses can be cheaply erected by native labor. Tents, too, in the absence of houses can be utilized, and open air sleeping accommodations easily secured.

The eastern slope of the eas range of mountains is rugged and abrupt with deep canyons and many streams of water. On the top of one of the mountains we found beautiful table-lands with numerous springs and lakes. There are several places there which nature appears to have laid off in ranches, and which appears like links in a chain and can be seen on one of Mr. Denton's maps.

Referring further to the water proposition it may be well to state here that numerous hot and cold mineral springs are to be found on the property; we found two such places. We heard of several others from Mr. Denton and many of them are indicated on his map.

Palacio granted to McKay and McKay to McKinley.

The history of the Palacio grant shows that it was a grant by the Supreme National Republic Government of Mexico to Don Ricardo Palacio for services rendered as a general to the Republic of Mexico. It was a law itself and was not given under any colonization law - not special legislation at that time. (1855 date of grant) Date of Constitution about September 1857.

Denton Cattle Company have made good showing as to possession of the land as shown on the map. They have a large number of cattle and are engaged in cattle raising.

McKinley grant from 29 degrees North to line, and East to range excepting lot already granted, has lapsed (generally admitted.)

McKay now dead. McKinley Attorney for estate. McKinley died afterwards. McKinley Attorney for estate.

Denton Co. people relatives of Col. Wm. Denton (surveyor).

Map made by Denton filed in Real del Castillo (court records) in 1857 in Court of 1st Instance (very large.)

McKinley says that Supervisors opinion recitals may be correct, but effects stated therein are correct.

McKinley thinks Power of Attorney to Moran from Palacio was recorded in Colima (Sargento friend there so informed him.)

SANTA CATARINA.

Data furnished by Thomas W Nowlin, Attorney for McCrindle estate.)

DEED - from Robert McKay to Wm. McCrindle dated January 13, 1880, conveys all of his interest in Santa Catarina grant and describes the whole grant and its history, judicial possession coupled with an interest.

McCrindle had the whole grant surveyed into leagues, by Robert Denton (Large map filed at Real del Castillo. (Egida).

Original of above deed filed in court of First Instance. Photo copy in possession of Nowlin.

McCrindles sole successors in interest: two daughters living in California.

Nowlin examined the "Iturbide concession" near Gulf of California (with many similar questions involved) giving judicial possession etc. (Showing Attorney Nowlin's familiarity with these legal points.

McCrindle became a Mexican citizen (as did McKay), prior to these conveyances above.

Palacio granted to McKay and McKay to McCrindle.

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Denton Cattle Company have made good showing as to possession of what it claims as carved out of the grant. Fences, corrals - etc, showing possibilities as to cattle raising.

British grant from 29 degrees North to line, and East to range excepting not already granted, has lapsed (Generally admitted.)

McKay now dead. Nowlin Attorney for estates. McCrindle died afterwards. Nowlin attorney for estate.

Denton Co. people relatives of Col. Wm. Denton (surveyor).

Map made by Denton filed in Real del Castillo June 11, 1875 in Court of 1st Instance (very large.)

Nowlin says that Supervelda opinion recitals may be correct, but effects stated therein not correct.

Nowlin thinks Power of Attorney to Morner from Palacio was recorded at Colima (Surgeon friend there so informed him.)



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McKay now dead. Nowlin Attorney for estate. McCrindle died afterwards. Nowlin attorney for estate.

Denton Co. people relatives of Col. Wm. Denton (survivor).

Map made by Denton filed in Real del Castillo June 11, 1875 in court of first instance (very large).

Nowlin says that supervising opinion recitals may be correct, but effects stated therein not correct.

Nowlin thinks Power of Attorney to Homer from Palacio was recorded at Colima (Surgeon friend there so informed him).

Palacio didnot come to Lower California.

Has letters of McKay to McCrindle showing shipments of cattle and expense of same over the border to San Diego in early 70's

Mr. Nowlin after all this study is satisfied that the Government of Mexico divested itself of title to Santa Catarina. He has made a complete investigation of the question as to whether the government could nullify titles after once given them. In his examination of an Iturbide concession near the Gulf, involving practically same law points etc., he cites Orozocos Terranos Baldios Vol. 1 pp 374-376 (Translations in San Francisco Law Library before fire.)

(In re foreigners)

Look up "Caleccion de Leyes y Decretes de Gobernacion, Mexicano - Aug 8, 1859 March 14, 1861 Aug 18, 1824, Feb 1, 1856 and March 10, 1857.

The Supreme Government in Aug. 8th, 1859 confirmed a grant of 11 leagues to Milatovich which had been previously granted by the Lower California authorities.

1-11 leagues	17,357.6
2-11 leagues	17,357.6
3-11 leagues	17,357.6
4-11 leagues	17,357.6
5-11 leagues	17,357.6
6-11 leagues	17,357.6
7-11 leagues	17,357.6
8-11 leagues	17,357.6
9-11 leagues	17,357.6
10-11 leagues	17,357.6
11-11 leagues	17,357.6
12-11 leagues	17,357.6
13-11 leagues	17,357.6
14-11 leagues	17,357.6
15-11 leagues	17,357.6
16-11 leagues	17,357.6
17-11 leagues	17,357.6
18-11 leagues	17,357.6
19-11 leagues	17,357.6
20-11 leagues	17,357.6
21-11 leagues	17,357.6
22-11 leagues	17,357.6
23-11 leagues	17,357.6
24-11 leagues	17,357.6
25-11 leagues	17,357.6
26-11 leagues	17,357.6
27-11 leagues	17,357.6
28-11 leagues	17,357.6
29-11 leagues	17,357.6
30-11 leagues	17,357.6

The following is a list of grants of land, both specific and floating, together with the number of leagues and acres in each grant where known and whether or not conditional. For convenience of reference the grants are numbered in the order that they appear in the OUTLINES OF TITLES and other papers previously prepared and compiled for listing in a private book of titles, arranged for the convenience of the owner, Antonio Milatovich. There were once two copies of this book, but it is not known positively whether the same are now in existence or not.

SPECIFIC GRANTS -

1- Sausal de Camacho	-- ½ league	-	2,169.7	-	acres
2- San Rafael North of Santa Catarina and - conditional.	__ 2 "	-	8,678.8	-	"
3- Rio Colorado	__ 4 "				
	and 700 acres		20,226.3	-	"
6- LaJunta	__ 4 leagues conditional		17,357.6	-	"
7-Grant	__ 11 leagues in vacant lands of the Rio Colo- rado(possibly a floating grant)		47,733.4	-	"
8-San Fernando	__ 11 leagues		47,733.4	-	"
9-Ojo de Liebre	__ 22 leagues and Salines con- ditional.		95,466.8	-	"
12-San Carlos	__ 4 leagues conditional		17,357.6	-	"
13-San Andreas	__ 11 leagues conditional		47,733.4	-	"
17-San Gertrudis	__ 11 leagues		47,733.4	-	"
18-Sobrante de las Juntas	__ 4 leagues conditional		17,357.6	-	"
19-Rio Colorado(#2)	__ 4 leagues conditional		17,357.6	-	"
21-Santa Catarina	__ 51 leagues		221,309.4	-	"
22-Stockholders interest 26 shares in Gochicoa & Co (which company (held 45 leagues ( under grante)			34,715.2	-	"

#772

Palacio did not come to Lower California.

Has letters of McKay to McCord showing shipments of cattle and expense of same over the border to San Diego in early '0's

Mr. Nowlin after all this study is satisfied that the Government of Mexico divided itself of title to Santa Catarina. He has made a complete investigation of the question as to whether the Government could nullify titles after once given them. In his examination of an Turbide concession near the Gila, involving practically same law points etc. he cites Ordoñez Terreros Baldios Vol. I pp 37-38 (Translations in San Francisco Law Library before time.)

(In re foreigners)  
Look up "Coleccion de Leyes y Decretos de Gobierno, Mexico - Aug. 8, 1859 March 14, 1861 Aug. 18, 1864, Feb. 1, 1866 and March 10, 1867.

The Supreme Government in Aug. 4th, 1859 confirmed a grant of 11 leagues to Milatovich which had been previously granted by the Lower California authorities.

The following is a list of grants of land, both specific and floating, together with the number of leagues and acres in each grant where known and whether or not conditional. For convenience of reference the grants are numbered in the order that they appear in the OUTLINES OF TITLES and other papers previously prepared and compiled for listing in a private book of titles, arranged for the convenience of the owner, Antonio Milatovich. There were once two copies of this book, but it is not known positively whether the same are now in existence or not.

SPECIFIC GRANTS

1	San Rafael	11 leagues	2,162.7	acres
2	North of Santa Catalina and Rio Colorado	conditional	8,678.8	"
3	Rio Colorado	4 leagues and 700 acres	20,226.3	"
6	La Junta	4 leagues conditional	17,327.6	"
7	Grant in vacant lands of the Rio Colorado (possibly a floating grant)	11 leagues	17,327.6	"
8	San Fernando	11 leagues	17,327.6	"
9	San Joaquin de la Puente and Salinas conditional	22 leagues	92,466.8	"
12	San Carlos	4 leagues conditional	17,327.6	"
13	San Andres	11 leagues conditional	17,327.6	"
17	San Gertrudis	11 leagues	17,327.6	"
18	Sobranse de las Juntas	4 leagues conditional	17,327.6	"
19	Rio Colorado (S)	4 leagues conditional	17,327.6	"
21	Santa Catalina	21 leagues	221,309.4	"
22	Stockholders interest 25 shares in Cochran & Co (which company held 45 leagues under grant)		34,712.2	"

23-San Felipe	10 1/2 leagues	45,563.7	acres
24-Santa Clara	1 league	4,339.4	"
	<u>108 leagues &amp; 700 A.</u>	<u>690,664.6</u>	<u>acres</u>

FLOATING GRANTS

4	11 leagues in the frontier	47,733.4	acres
5	4 leagues	17,357.6	"
10	11 conditional	47,733.4	"
11	11 conditional	47,733.4	"
14	11 conditional	47,733.4	"
15	11 conditional	47,733.4	"
16	11 "	47,733.4	"
20	2 3/4 conditional	11,933.4	"
	<u>7234</u>	<u>Total</u>	<u>315,691.4 acres</u>

RECAPITULATION. SANTA CATARINA RANCHO (NO. 21 - of specific grants)

(Showing claimants of the various undivided interests)

A. Milatovich (possibly including Thomson and Rutledge) — 51 leagues — 221,309.4 acres

McCrinkle	96 1/2 "	408,752	"
Castro	"	261,000	"
Palacio	"	493,377	"
Outstanding interests	"	95,694.6	"
		<u>1,480,133</u>	<u>acres</u>

Omaha, Nebraska, January 10, 1916.

Dear Sir:

I think I am in a position where I can safely say to you that if the Milatovich claim is just, in the opinion of my party and his associates, I can get favorable consideration for it. The party resides in Omaha and there is no question in my mind about his ability to carry this through and do it at once. They have gone over the papers carefully and are satisfied themselves to a certain degree; in fact I had a telegram written to you asking you to bring on the papers and they will pay expenses. Now, if you can give me satisfactory explanation of the matters which I will ask you in this letter they will take care of the expenses account and they are abundantly able to look after all matters in closing up the transaction on a favorable basis. They want to know:

- 1st. If anyone are occupants of the land at this time?
- 2nd. Do the occupants make any claim of title?
- 3rd. Are there any person, persons or corporation claiming adverse title to this property? If so on what claim or color of title do they claim the title?
- 4th. What would be the cost of buying the claims of the occupants?
- 5th. Who is the present governor of Lower California and to what political element does he belong?
- 6th. What part has Lower California taken in this last revolution and rebellion?
- 7th. Has this case ever been tested in the Courts of Mexico?
- 8th. What other lawyers beside yourself and Mr. White have been interested in this case? That is, I am speaking solely with reference to perfecting the title to the land and not with reference to any claim for damages that may have been made against the Mexican Government.
- 9th. What efforts and measures have been taken by Antonio Milatovich and his heirs other than shown by the papers which I have in my possession?
- 10th. Have you the original grants, receipts, and documents in your possession and under your control? And could you bring them to Omaha with you so that my party could present them to the Mexican government, with a recommendation on his part that our claim be allowed?

104 acres	104 leagues	25-San Felipe
"	"	"
108 leagues	108 leagues	24-Santa Clara
100 A.	100 leagues	"

FLUATING GRANTS

4	11 leagues	in the frontier	#7,733.4
5	11 leagues	"	17,357.6
10	11	conditional	#7,733.4
11	11	conditional	#7,733.4
14	11	conditional	#7,733.4
15	11	conditional	#7,733.4
16	11	"	#7,733.4
20	11	conditional	11,933.4
Total		7334	315,691.4 acres

RECAPITULATION SANTA CATARINA RANCHO (NO. 21 - of specific grants)

(Showing statements of the various undivided interests)

A. Milatovich (possibly including Thomas and Rutledge) -- 51 leagues -- 221,309.4 acres

McGrindle	26 1/2	1,408,752
Castro	---	261,000
Palacio	---	43,377
Outstanding interests	---	25,694.6
Total		1,740,824.6 acres

Owens, Nebraska, January 10, 1916.

Dear Sir:

I think I am in a position where I can safely say to you that if the Milatovich claim is just, in the opinion of my party and his associates, I can get favorable consideration for it. The party resides in Omaha and there is no question in my mind about his ability to carry this through and do it at once. They have gone over the papers carefully and are satisfied themselves to a certain degree; in fact I had a telegram written to you asking you to bring on the papers and they will pay expenses. Now, if you can give me satisfactory explanation of the matters which I will ask you in this letter they will take care of the expenses and account they are abundantly able to look after all matters in closing up the transaction on a favorable basis. They want to know:

- 1st. If anyone are occupants of the land at this time?
- 2nd. Do the occupants make any claim of title?
- 3rd. Are there any persons, persons or corporation claiming adverse title to this property? If so on what claim or color of title do they claim the title?
- 4th. What would be the cost of paying the claims of the occupants?
- 5th. Who is the present governor of Lower California and to what political element does he belong?
- 6th. What part has Lower California taken in this last revolution and rebellion?
- 7th. Has this case ever been tested in the Courts of Mexico?
- 8th. What other lawyers besides yourself and Mr. White have been interested in this case? That is, I am speaking solely with reference to perfecting the title to the land and not with reference to any claim for damages that may have been made against the Mexican Government.
- 9th. What efforts and measures have been taken by Antonio Milatovich and his heirs other than shown by the papers which I have in my possession?
- 10th. Have you the original grants, receipts, and documents in your possession and under your control? And could you bring them to Omaha with you so that my party could present them to the Mexican Government, with a recommendation on the part that our claim be allowed?

San Francisco, January 15, 1916.

11th. In the Supervelda opinion, he speaks of the Palacio grant, specifically. What amount of property included in the Milatovich holdings are covered by that grant?

Your letter of January 10th has been carefully read. I would suggest that you write me promptly and fully in regard to these matters, for I can say to you without any hesitation that I have no doubt of the ability of my parties to carry this through; if, as I said before, an equitable case can be presented to them.

Let me hear from you as promptly as possible.

Yours truly,

(Signed) Thomas H Matters

Mr. George L. Stewart,  
995 Market Street  
San Francisco Cal.

12th. We do not know the character of the claim of title of the occupants and do not know the amount of the claim. The interest in the land is held by the Lower California Land and Cattle Company, which might be considered adverse. As your papers will show, the same company consists of about 34,000 acres of land in the State of California, and in addition, the company has a ranch in the State of California, which is about 1,500 acres in extent. The actual location of this ranch is not known to me.

13th. If there are any other occupants, we have no way of knowing who they are, and we have no way of knowing how they came to be there.

14th. Governor Gentry is the present governor of the Northern District of Lower California. He is inclined to carry favor with Carranza, but is supposed to be a former Diaz adherent.

15th. Lower California has not been tested in the Courts of Mexico, and no other lawyers besides yourself and Mr. White have been interested in this case.

16th. The case has never been tested in the Courts of Mexico.

17th. I have not seen the original grants, receipts, and documents in your possession and under your control. I am speaking solely with reference to perfecting the title to the land and not with reference to any claim for damages that may have been made against the Mexican Government.

San Francisco, January 15, 1916.

Thos. H. Matters, Esq.,  
Omaha, Nebraska.

Dear Sir:

In re Antonio Milatovich

Your letter of January 10th has been carefully considered by Mr. White and myself, and we will endeavor to briefly answer your queries.

One of the things that has always impressed us, as it has others who have had occasion to look into the matter, is the justness of the claim and the fact that it has never been determined on the merits.

1st. To the best of our knowledge there are no occupants of the lands at this time, speaking of the various grants; but we believe that small portions of the Northern section of the Santa Catarina grant, amounting to about 15,000 acres are occupied by William Denton Company, which might be considered adverse. As your papers will show, the Santa Catarina Rancho consists of about 341,8-25 square leagues, being 10 leagues, 5500 varas in width, from West to East, and 21 leagues, 1000 varas in length from North to South; of this, Milatovich owned over 1,500,000 acres. His co-tenant, one McRindle, owner of a large undivided interest in this ranch, has been in actual possession and occupation for a number of years past, his family residing there. McRindle's co-tenancy extends to practically all of the remainder of said ranch, not owned by Milatovich. The actual possession of this co-tenant should be of assistance to us.

2nd. We do not know the character of the claim of title of the Denton Co. to the above small portion, although the International Company (possibly through its subsidiary the Lower California Development Co) have been granted everything North of the 29th parallel of latitude, not already granted, there may be some questions of over-lapping in places; however, the country is so sparsely settled that actual occupation in this regard must be nominal. (We believe that this also covers No. 3.)

4th. If there are any actual occupants, we have no idea of the nature of such, and hence can give no idea of the cost of paying such claims.

5th. Governor Cantu is de-facto governor of the Northern District of Lower California. He is inclined to curry favor with Carranza, but is supposed to be a former Diaz adherent.

6th. Lower California has taken practically no part in the revolution, and has been somewhat apart from the main conflict. There have been petty disorders from time to time.

7th. This case has never been tested in the Courts of Mexico.

8th. We do not know of any attorneys who have been in any way interested in this case as you state, and Mr. White has known Antonio Milatovich for several years prior to his death in this city, and has been continuously associated with the matter, acting as attorney for his estate and that of the deceased son for whom we deraign.

With in the Supervised opinion, he speaks of the  
Palacio Grant, specifically. What amount of  
property included in the Milatovich holdings  
are covered by that grant?

I would suggest that you write me promptly and fully  
in regard to these matters, for I can say to you without  
any hesitation that I have no doubt of the ability of my  
parties to carry this through; as I said before, an  
equitable case can be presented to them.  
Let me hear from you as promptly as possible.

Yours truly,  
Thomas H. Matters (Signed)  
Mr. George L. Stewart,  
999 Market Street  
San Francisco Cal.

San Francisco, January 15, 1916.

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Omaha, Nebraska  
Thos. H. Metters, Esq.

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1st. To the best of our knowledge there are no occupants of the lands at this time, speaking of the various grants; but we believe that small portions of the Northern section of the Santa Catalina grant, amounting to about 15,000 acres are occupied by William Denton Company, which might be considered adverse. As your papers will show, the Santa Catalina Rancho consists of about 341,825 square leagues, being 10 leagues, 2500 yaras in width, from West to East, and 21 leagues, 1000 yaras in length from North to South; of this, Milatovich owned over 1,500,000 acres. His co-tenant, one McRindle, has owner of a large undivided interest in this ranch, has been in actual possession and occupation for a number of years past, his family residing there. McRindle's co-tenancy extends to practically all of the remainder of said ranch, not owned by Milatovich. The actual possession of this co-tenant should be of assistance to us.

2nd. We do not know the character of the claim of title of the Denton Co. to the above small portion, although the International Company (possibly through its subsidiary the Lower California Development Co) have been granted everything North of the 23rd parallel of latitude, not already granted, there may be some questions of overlapping in places; however, the country is so sparsely settled that actual occupation in this regard must be nominal. (We believe that this also covers No. 3.)

3rd. If there are any actual occupants, we have no idea of the nature of such, and hence can give no idea of the cost of paying such claims.

4th. Governor Gamu is de-facto Governor of the Northern District of Lower California. He is inclined to carry favor with Garza, but is supposed to be a former Diaz adherent.

5th. Lower California has taken practically no part in the revolution, and has been somewhat apart from the main conflict. There have been petty disorders from time to time.

6th. This case has never been tested in the Courts of Mexico.

7th. We do not know of any attorneys who have been in any way interested in this case as you state, and Mr. White has known Antonio Milatovich for several years prior to his death in this city, and has been continually associated with the matter, acting as attorney for his estate and that of the deceased son for whom we determine.

9th. We know of no other claim for damages, saving the claim now on file in Washington, with which you are familiar, and in fact we can state that none other was ever made.

10th. For many years prior to his death, Milatovich was feeble, decrepit and in absolute want and could not continue to press his claims. This condition to a great extent was brought about by the dissipation of his fortunes, through the Lower California enterprise. We know of no other efforts by him other than those shown by the papers in your possession and further those on file in Washington.

11th. We have the original grants, receipts and documents in our possession and under our control. They are chiefly, if not entirely in Spanish. Secretary Hay once wrote Mr. White, indirectly, that the Mexican government would no doubt accept certified copies of these papers in evidence, that is, certified copies of those on file in Washington, which includes everything here. If you conclude that it is necessary to bring the originals to Omaha, no doubt it could be arranged to do so. They are in the safe deposit vaults. Mr White has the impression that the Mexican Government has duplicates of the Washington files at Mexico City in the archives. He thinks that the Mexican representatives who appeared at Washington may have filed their papers upon their return to Mexico.

12th. The Santa Catarina Rancho is the only one of the Milatovich properties included in the Palacio Grant, referred to in Supervelda's opinion.

You will probably recall that in my paper called "Points & Authorities, I have referred to the decree of March 14th, 1861, relied upon chiefly by Supervelda as to the avoiding of the Palacio grant. This criticism is supported by the citations from Hamilton on Mexican Law, which I left with you and the opinion of Attorneys for McCrindle, or co-tenants referred to above.

What is your plan with reference to consulting the Washington record? Apart from muniments of title or copies thereof, the Washington files contain a number of lengthy affidavits showing the efforts made by Milatovich to recover and colonize his land grants. My purpose in mentioning this matter is that you may not be able to recall all that I told you concerning them after my personal examination when last in Washington.

Yours respectfully,  
(Geo.L.Stewart)

9th. We know of no other claim for damages, saving the claim now on file in Washington, with which you are familiar, and in fact we can state that none other was ever made.

10th. For many years prior to his death, Mitrovich was feeble, decrepit and in absolute want and could not continue to press his claims. This condition to a great extent was brought about by the dissipation of his fortunes through the Lower California enterprises. We know of no other efforts by him other than those shown by the papers in your possession and further those on file in Washington.

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